

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.CMA.No.1407 OF 2009

JUDGMENT:

Though the matter has been listed under the caption 'for dismissal', there is no representation for the appellant – National Insurance Company Limited, which is respondent No.2 in O.P.No.446 of 2001 on the file of Chairman, Motor Accidents Claims Tribunal – cum – Chief Judge, City Civil Court, Hyderabad, but, still, it is felt desirable to dispose of the matter on merits instead of dismissing the appeal for non-prosecution, as challenge in the instant appeal is only to the quantum of compensation awarded by the Tribunal by order, dated 17.10.2002, in the said O.P., but not concerning any violation of the terms and conditions of the policy.

2. The appellant – National Insurance Company Limited is respondent No.2, while respondent Nos.1 to 4 are the petitioners and respondent No.5, owner of the offending vehicle, is respondent No.1 in the O.P. before the Tribunal.

3 . For the sake of convenience, the parties are hereinafter referred to as they were arrayed in the O.P. before the Tribunal.

4. The facts would disclose that on 16.02.2001 at about 01:30 PM, while one Gamma, who is the wife of petitioner No.1 and mother of petitioner Nos.2 to 4, was collecting waste papers at Malakpet Gunj in front of Namalla Rajaiah shop, a lorry bearing registration No.AP-11-T-2526 came at high speed in a rash and negligent manner and ran over her both legs, due to which, she received fracture injuries and immediately, she was shifted to Osmania General Hospital, where she succumbed to the injuries on the same day while undergoing treatment.

5. Respondent No.1 – owner of the lorry, remained *ex parte* before the Tribunal.

6. Respondent No.2 – Insurance Company opposed the claim by filing a counter.

7. Based on the said pleadings, the Tribunal has framed three issues and formulated two points.

8. During enquiry, petitioner No.1, besides examining himself as PW.1, examined one Smt. Legi as PW.2 and marked Exs.A1 to A4 to substantiate the claim laid. On behalf of respondent No.2, no oral evidence was let in, but Ex.B1 – copy of Insurance Policy, was marked.

9. The Tribunal, on appraisal of evidence on record, held point No.1 in favour of the petitioners. On point No.2, the Tribunal, taking the notional income of the deceased at Rs.15,000/- per annum, by deducting 1/3rd therefrom towards personal expenses of the deceased and applying multiplier '13', taking the age of the deceased as 50 years, worked out the loss of dependency at Rs.1,30,000/- and granted the same, besides granting Rs.20,000/- towards loss of love and affection, funeral expenses, loss of consortium and loss of estate, thus, making a total of Rs.1,50,000/- with interest at 9% per annum.

10. It is the aforesaid order which is under challenge in the instant appeal preferred by the Insurance Company mainly on the ground that the Tribunal instead of applying multiplier '4.27', wrongly applied multiplier '13', and that the Tribunal ought to have taken the age of the deceased as 55 years, as per the entries in Ex.A3, but not 50 years.

11. No representation for the appellant, as already mentioned above. The appeal is coming up for dismissal for non-prosecution.

12. The Tribunal, though, recorded a finding that the deceased was 49 years old, taken 50 years as the age of the deceased. It is no doubt true that as per the decision

in **Bhagwan Das v. Mohd. Arif**^[1], the multiplier to be applied may be '4.27', but, in view of the recent pronouncement of the Honourable Supreme Court in **Sarla Verma v. Delhi Transport Corporation**^[2], for the persons in the age group 46 - 50, the relevant multiplier is '13' and, therefore, the order and decree passed by the Tribunal cannot be faulted, in view of the relevant findings as mentioned above. Thus, there is no merit in the instant appeal.

13. Hence, the appeal is dismissed. Miscellaneous Petitions, if any, pending in this appeal, shall stand closed. No costs.

A. SHANKAR

NARAYANA, J

August 03, 2016.
MD

^[1] 1987 (2) ALT 137

^[2] (2009) 6 SCC 121