HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.2776 OF 2009

JUDGMENT:

Respondent No.2 - M/s. United India Insurance Company Limited preferred the instant appeal under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act'), aggrieved over the order and decree, dated 30-08-2006, passed by the learned Chairman, Motor Accident Claims Tribunal - cum - I Additional Chief Judge, City Civil Court, Secunderabad (for short 'the Tribunal'), in M.V.O.P. No.96 of 2005, whereby and where-under a sum of Rs.2,95,000/- was awarded as compensation with interest at 7.5% per annum thereon, as against the claim of Rs.4,00,000/- laid under Section 166 of the Act by respondent Nos.1 to 5 herein, who are petitioners in the aforesaid MVOP for the death of K. Sathaiah; mainly on the ground that the Tribunal has not made any deduction towards personal living expenses though, it has taken Rs.15,000/- per annum as notional income and applied multiplier factor '18' instead of '17', and sought to set aside the order.

2. Heard Sri E. Venugopal Reddy, learned standing counsel for the appellant - respondent No.2, and Sri Akkam Eshwar, learned counsel for respondent Nos.1 to 5 - petitioners. Respondent No.6, owner of the vehicle, though received notice, not entered his appearance.

3. The fact-situation occurring in the instant case is not in dispute including the manner in which the accident did take place resulting in the death of deceased - K. Sathaiah, husband of petitioner No.1, father of petitioner No.2, son of petitioner Nos.3 and 4, and brother of petitioner No.5. The Tribunal on appraisal of evidence, has taken notional income of Rs.15,000/- per annum and the age of the deceased as 28 years and multiplier factor '18'. It is true, no deduction was made towards personal living expenses, but the Tribunal has observed that the amount of Rs.15,000/- taken by it, was towards not only loss of life, but also towards future earnings and, thus, taken Rs.15,000/- per annum towards both the components and applied multiplier '18', besides awarding Rs.10,000/- towards funeral expenses andRs.15,000/- towards loss of consortium. Of course, towards loss of estate, nothing is shown. Thus, what is to be found in the order made by the Tribunal is, even towards future prospects, the Tribunal has computed the amount which component has merged in the annual income of Rs.15,000/-.

4. In that view of the matter, the Tribunal, not deducting any amount towards personal living expenses cannot be faulted. When the law laid down by the Hon'ble Supreme Court in **Sarla Verma & others v. Delhi Transport Corporation and another**[1] and **Rajesh and others v. Rajbir Singh and others**[2] is applied, certainly, towards

1. (2009) 6 Supreme Court Cases 121
2. 2013 ACJ 1403

future prospects, the petitioners are entitled to 50% of the loss of dependency. Thus, viewed, certainly, the amount of Rs.2,95,000/- granted by the Tribunal cannot be construed or viewed as excessive or arbitrary and it is in the direction of just and adequate compensation being determined.

5. Even, the rate of interest awarded by the Tribunal at 7.5% per annum is in tune with the decision of the Hon'ble Supreme Court in **Rajesh's Case** (Supra 2) and, therefore, the same is maintained. Thus, there is no merit in the present appeal.

6. Accordingly, the appeal is dismissed. No order as to costs.

As a sequel thereto, miscellaneous applications, if any, pending in the appeal, stand disposed of.

A. SHANKAR NARAYANA, J

November 15, 2016.
Mgr