

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. Nos.1344 OF 2009 AND 813 OF 2012

COMMON JUDGMENT:

The claims in the original petitions, from which the orders and decrees arise in the present appeals, respectively, relate to one and the same accident and, therefore, both the appeals are taken up for common disposal.

2. The claimants, being the parents of the respective deceased, having got dissatisfied with the award of Rs.1,15,500/- and Rs.1,45,500/- respectively, by the orders and decrees dated 08.05.2008 and 09.05.2008 respectively, in M.V.O.P. Nos.1183 of 2007 and 1158 of 2007 respectively, on the file of the Chairman, Motor Accidents Claims Tribunal-cum-VI Additional District Judge (Fast Track Court), Warangal at Mahabubabad (for short, 'the Tribunal'), preferred the instant appeals under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act') on the ground that the amounts are very meager since they claimed Rs.4,00,000/- and Rs.5,00,000/- respectively.

3. For the sake of convenience, the parties hereinafter referred to as they were arrayed before the Tribunal in the original petition.

4. The fact-situation would show that on 16.01.2007 at about 8-00 p.m., both the deceased went to Maripeda on a bicycle to witness a second show movie, having witnessed the same, while they were returning and reached Dharavath Thanda at about 1-00 a.m., early hours, a lorry bearing registration No.AP 13T 4239 driven in a rash and negligent manner came and dashed their bicycle, due to which, both of them succumbed to the injuries, one of them died instantly and other died on the next day while undergoing treatment. A complaint was also lodged and due formalities were observed by the concerned police.

5. The parents of both the deceased respectively, filed the claims seeking the aforesaid sums against respondent Nos.1 to 3. Respondent No.1 is the owner of the vehicle and respondent Nos.2 and 3 are Branch Manager and Divisional Manager of the Insurance Company.

6. Respondent No.1, the owner of the vehicle, remained *ex parte*.

7. Counters were filed on behalf of respondent Nos.2 and 3 in both the claim petitions opposing the claim.

8. The Tribunal has framed three identical issues in each of the claim petitions about the responsibility for the accident. During enquiry, in each of the claim

petitions, two witnesses were examined on behalf of the claimants and Exs.A.1 to A.8 in the former claim petition and Exs.A.1 to A.12 in the latter claim petition were marked; and on behalf of the Insurance Company, no witnesses were examined and no documents were filed.

9. The Tribunal, taking the ages of the deceased as 17 years and 19 years respectively, and studying at the time of accident and taking the notional income, as provided in Second Schedule to Section 163-A of the Act, of Rs.15,000/- and treating the deceased in both the cases as non-earning members, taking the age of the younger parent, applied relevant multiplier and granted compensation of Rs.1,15,500/- in the former claim petition, whereas Rs.1,45,500/- in the latter claim petition with interest at 7.5% per annum.

10. It is the aforesaid orders which are under challenge in the instant appeals respectively, contending in the grounds that the deceased being students had bright future and were holding a very good academic career and, had they been alive, they would have had bright future and could have contributed large amount to the family, sought the amounts claimed.

11. Heard Sri A.Prabhakar Rao, learned counsel for the appellants-petitioners in both the appeals, Sri N.Mohan Krishna, learned Standing Counsel for respondent Nos.2 and 3 in the former appeal, and Sri

V.Venkatarami Reddy, learned Standing Counsel for respondent Nos.2 and 3 in the latter appeal. It is endorsed in the cause title of grounds of appeal that, respondent No.1-owner is not necessary party. However, his absence would not make any difference in examining the present requests in both the appeals.

12. Learned counsel for the appellants would place reliance on the decision of the Hon'ble Apex Court in **Manju Devi v. Musafir Paswan**^[1], where the award of Rs.90,000/- granted by the Tribunal was enhanced to Rs.2,25,000/- for a non-earning member, the deceased who was a boy of 13 years old in the said case. It is also his submission that in **Rajesh and others v. Rajbir Singh and others**^[2], the Hon'ble Apex Court has granted Rs.1,00,000/- towards love and care and, therefore, he requests to grant the amount by way of enhancement. Further, he relied on the decision of the Hon'ble Apex Court in **Kishan Gopal and another v. Lala and others**^[3], where fixed the notional income at Rs.30,000/- in place of Rs.15,000/- on the ground that the notional income of Rs.15,000/- was introduced in the year 1994 in the legislation and, therefore, sought to enhance the compensation.

13. Learned counsel for the Insurance Company in both the appeals, on the other hand, would contend that

the award of compensation by the Tribunal is on correct lines and just compensation is granted and, therefore, sought to dismiss both the appeals.

14. Admittedly, the deceased in the former appeal was studying 10th class, aged 17 years and the other deceased aged 19 years. Though, it is stated that he was doing a private job, besides prosecuting Intermediate, still, the Tribunal did not agree with that stand for the reason that the salary certificate marked as Ex.A.10 was not proved. Thus, there is no proper evidence on record to prove the contents of the said certificate. That finding recorded by the Tribunal is on correct lines.

15. Now, the only short question that falls for consideration is, what would be the reasonable amount to which the petitioners in each appeal are entitled. When kept in view, the decision of the Hon'ble Apex Court in **Manju Devi's** case (1 supra), certainly, the petitioners are entitled to Rs.2,25,000/-. The deceased was a boy in that case aged 13 years. When the age difference is taken with reference to the ages of the deceased in the present appeals, certainly, they are entitled to some more amount. In that view of the matter, a lump sum amount that can be granted to the petitioners is Rs.2,50,000/-, which would be just and reasonable.

16. Thus, the petitioners are entitled to a total sum of Rs.2,50,000/- (Rupees two lakh and fifty thousand) in

each claim petition, as against Rs.1,15,500/- and Rs.1,45,500/- granted by the Tribunal towards compensation and the same is accordingly granted. So far as the rate of interest is concerned, the Tribunal granted the same at 7.5% per annum in both the claim petitions and the same is maintained on the entire amount of compensation in view of the decision of the Hon'ble Supreme Court in **Rajesh's** case (2 supra).

17. Accordingly, both the instant appeals are allowed in part modifying the orders passed by the Tribunal, by enhancing the compensation, as indicated above, and confirming the same in all other respects. There shall be no order as to costs.

18. As a sequel thereto, miscellaneous petitions, if any pending in these instant appeals, stand closed.

A. SHANKAR NARAYANA, J

22nd July, 2016

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[\[1\]](#) 2005 ACJ 99

[\[2\]](#) 2013 ACJ 1403

[\[3\]](#) (2014) 1 SCC 244