THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

MACMA.No.967 of 2008
&
MACMA.No.260 of 2009

COMMON JUDGMENT:

The former appeal is preferred by the erstwhile Andhra Pradesh State Road Transport Corporation represented by the Managing Director & Depot Manager of Mushirabad, arrayed as respondent Nos.1 & 2 in O.P.No.1037 of 2002 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-I Additional District Judge at Nizamabad (for short 'the Tribunal'), on the ground that the compensation of Rs.7,32,500/- awarded by the Tribunal, by its order and decree dated 26.09.2007 in the said O.P., was excessive and arbitrary.

2. The latter appeal is preferred by the petitioners-claimants in the said O.P on the ground that the compensation awarded by the Tribunal, as against the claim of Rs.16,00,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act'), was inadequate and not just and, therefore, sought to grant the balance amount.

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

4. The manner in which the accident had taken place causing the death of Talla Anjaiah, who was working as Junior Assistant in the

Office of Divisional Co-operative Officer, Bodhan, Nizamabad, and the petitioners being his legal heirs are not in dispute. The only controversy in these two appeals relate to quantum of compensation. Therefore, what is to be seen in these appeals is, whether the compensation awarded by the Tribunal is excessive or inadequate, as claimed by the respective parties.

5. Heard Sri N.Vasudeva Reddy, learned Standing Counsel for the Corporation in both these appeals, and Sri S.Surender Reddy, learned counsel for the respondents in the former appeal, who are the appellants in the latter appeal.

6. The Tribunal has taken the age of the deceased as 43 years, as against the stand of the petitioners that the deceased was 38 years old on the date of accident. The Tribunal, observing that no document is filed by the petitioners to prove the age of the deceased, taken the age mentioned in the inquest report and Post-Mortem Examination report, marked as Exs.A4 & A3, respectively, showing the age of the deceased as 43 years. So far as the monthly earnings is concerned, basing on the entries in Ex.A5-salary certificate and observing that the deceased was working as Junior Assistant in the Office of the Divisional Co-operative Officer, Bodhan, and Ex.A5 was issued by no other than the Divisional Co-operative Officer, Bodhan, showing that the deceased was drawing the monthly salary of Rs.5,962/- as on 05.02.2002, on which date the accident did occur, resulting, in the death of the said Anjaiah, and also

showing therein that had he been alive on 31.05.2007, he would have drawn Rs.7,770/- towards Pay, Rs.1903/- towards Dearness Allowance, Rs.971/- towards House Rent Allowance and thus, shows a total salary of Rs.10,644/-. The Tribunal has fixed the monthly earnings at Rs.5,962/- or annual income at Rs.71,544/- and, by deducting 1/3rd towards his personal living expenses, taken the remaining amount of Rs.47,696/- as contribution to the family. The Tribunal applied multiplier factor '13' on the basis of entry in Schedule-II to Section 163-A of the Act and arrived at Rs.6,20,048/- towards loss of dependency. Besides this, the Tribunal also granted Rs.5,000/- towards loss of consortium, Rs.2,000/- towards funeral expenses, Rs.5,500/- towards medical and transportation expenses and Rs.1,00,000/- towards loss of love & affection, thus, making a total compensation of Rs.7,32,548/- with interest at the rate of 7.5% per annum, and apportioned the same amongst the petitioners by fixing their respective shares.

7. The aforesaid order determining compensation is under challenge by the respective parties, as stated in the above.

8. Now, the first question that arises for consideration is whether the Tribunal was right in taking Rs.5,962/- as monthly earnings of the deceased, without referring to any statutory deductions, second, the multiplier factor applied by the Tribunal, and third, in view of the law declared by the Hon'ble Apex Court in **Sarla Verma & others v.**

Delhi Transport Corporation and another[1], whether the claimants are entitled to future prospects and, if so, at what rate and what would be the total compensation, to which the claimants are entitled.

9. At the outset, it can be straight away said that there would not be any merit in the appeal preferred by the Corporation, in view of the law declared by the Hon'ble Supreme Court in **Sarla Verma**'s case referred supra.

10. Turning to the request made in the latter appeal made by the claimants for enhancement, Ex.A5 would show that the deceased was drawing a gross salary of Rs.5,962/-, but, somehow, the Drawing and Disbursing Officer has not mentioned the deductions. At least the Professional Tax, which is statutory deduction, ought to be deducted. Though, the deduction towards Professional Tax is not mentioned, it can be assumed between Rs.80/- and Rs.100/-, in which case, the minimum amount of Rs.80/- can be taken towards such deduction. After making such deduction, the gross salary would be Rs.5,882/- per month (Rs.5,962–80) and the annual income works out to Rs.70,584/-. The Tribunal has deducted 1/3rd towards personal living expenses of the deceased, but, in the instant case, the dependants are numbering 4, who are the wife and daughters, amongst whom the 4th petitioner was a minor on the date of filing the claim petition, and, therefore, in view of the legal principle laid down in **Sarla Varma**'s case referred to in the above,

---

[1] (2009) 6 Supreme Court Cases 121

the permissible deduction is 1/4th and the same works out to Rs.17,646/-. When the same is deducted from the annual income of Rs.70,584/-, the contribution to the family works out to Rs.52,938/-.

11. Turning to the relevant multiplier, the Tribunal, basing on the entry in Schedule-II to Section 163-A of the Act, applied multiplier ‘13’, but, in view of the table formulated by the Hon’ble Supreme Court in **Sarla Varma**’s case referred supra, the relevant multiplier factor would be ‘14’ and when the same is applied, the loss of dependency would work out to Rs.7,41,132/- (Rs.52,938/- x 14). The deceased was working as Junior Assistant, as mentioned in the above. The Tribunal has recorded a finding that he was a Government servant. Therefore, the petitioners are also entitled to future prospects at 30% of loss of dependency arrived at and the same works out to Rs.2,22,339.6 (Rs.7,41,132 x 30%), rounded off to Rs.2,22,340/-, which, of course, was not taken into consideration by the Tribunal as the law declared was not in vogue when the order under challenge was rendered. Thus, the total loss of dependency including future prospects works out to Rs.9,63,472/- (Rs.7,41,132 + 2,22,340). The petitioners are, therefore, entitled to Rs.9,63,472/- towards loss of dependency including future prospects. The Tribunal has granted an amount of Rs.2,000/- towards funeral expenses, Rs.5,500/- towards medical and transportation charges, Rs.5,000/- towards loss of consortium, Rs.1,00,000/- towards loss of love and affection, making a total sum of Rs.1,12,500/- towards conventional sums, but, placing reliance on the decision of the Hon’ble

Supreme Court in **Ramilaben Chinubhai Parmar v. National Insurance Company**[2], it is observed that the petitioners are entitled to an amount of Rs.50,000/- only towards conventional sum and the same is, accordingly, granted, as against Rs.1,12,500/- granted by the Tribunal.

12. Thus, the petitioners are entitled to a total compensation of Rs.10,13,472/-, as against Rs.7,38,548/- granted by the Tribunal, and the same is, accordingly, granted.

13. So far as the rate of interest is concerned, the Tribunal awarded the same at 7.5% per annum and, since the same is on the lines of rate of interest awarded by the Hon'ble Apex Court in **Rajesh and others v. Rajbir Singh and others**, the same is maintained even on the enhanced amount.

14. The enhanced amount shall be apportioned among the petitioners in the same proportion in which the original compensation amount was directed to be apportioned and disbursed by the Tribunal.

15. Accordingly, M.A.C.M.A.No.260 of 2009 is allowed in part modifying the order passed by the Tribunal, by enhancing the compensation, as indicated above, and confirming the same in all other respects. Consequently, M.A.C.M.A.No.967 of 2008 is dismissed. There shall be no order as to costs.

---

[2] LAWS (SC) -2014-4-67

16. As a sequel, pending miscellaneous applications, if any, in these appeals, shall stand closed.

JUSTICE A.SHANKAR NARAYANA

29.08.2016
v v