

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.1520 OF 2009

JUDGMENT:

Having got dissatisfied with the award of Rs.33,504/- as compensation by the order dated 19.05.2004 in O.P. No.1781 of 2002 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-

XXI Additional Chief Judge-cum-VII Additional Metropolitan Magistrate for Communal Offences Cases, Red Hills, Nampally (for short, 'the Tribunal') as against the claim of Rs.1,00,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') for the death of one Choti Bee @ Mohaboob Bee in a road accident, the instant appeal is preferred under Section 173 of the Act, seeking enhancement of compensation.

2. The appellants herein, who are sons of the said Choti Bee @ Mohaboob Bee, are the petitioners, while respondent Nos.1 and 2 herein, who are the erstwhile Andhra Pradesh State Road Transport Corporation (for short, 'the Corporation'), represented by its Managing Director, RTC 'X' Road, Musheerabad, Hyderabad and the Depot Manager of the Corporation, Midhani Depot, Hyderabad, are respondent Nos.1 and 2, respectively, in the original petition.

3. For the sake of convenience, the parties

hereinafter referred to as they were arrayed before the Tribunal in the original petition.

4. Death of one Choti Bee @ Mohaboob Bee (deceased) occurred in a road accident. The manner in which the said accident occurred is not disputed by the opposite party. The only dispute is with regard to the earnings of the deceased fixed by the Tribunal and the amount arrived at by the Tribunal towards compensation.

5. Heard Sri T.Viswarupa Chary, learned counsel for the appellants-petitioners, and Sri N.Vasudeva Reddy, learned Standing Counsel for the respondent-Corporation.

6. Perused the order and the material available on record.

7. The Tribunal fixed the age of the deceased as 50 years, however, has not approved tailoring profession putforth by the petitioners for want of evidence to prove the said profession. But somehow, the Tribunal making an observation that the maid-servants will be given only Rs.300/- per month and, thus, fixed the monthly earnings at Rs.350/-, deducted 1/3rd therefrom and taken Rs.2,800/- per annum as contribution to the family and applied multiplier '7.68' basing on the decision of this Court in **Bhagwandas v. Mohd. Arif**^[1] and worked out the loss of dependency at Rs.21,504/-. This apart, the Tribunal granted Rs.10,000/- towards loss of estate and

Rs.2,000/- towards transport to the hospital, extra nourishment and attendant charges. Thus, in all, the Tribunal granted Rs.33,504/- with interest at 9% per annum.

8. Aggrieved by the same, the present appeal is preferred mainly on the ground that the Tribunal ought to have considered the earnings at Rs.3,000/- on tailoring profession and, therefore, sought to grant the balance amount.

9. The Tribunal, somehow, totally went wrong in fixing the monthly earnings. Atleast the Tribunal ought to have taken cognizance of the fact that the Second Schedule to Section 163-A of the Act would provide Rs.15,000/- per annum as notional income for a non-earning member, which the Tribunal has totally lost sight. Therefore, when the notional income is taken as Rs.15,000/-, as provided in the Second Schedule to Section 163-A of the Act, after deducting 1/3rd towards personal expenses, the contribution of the deceased to the family would work out to Rs.10,000/- per annum. Since the age of the deceased was 50 years, relevant multiplier would be '13' as per the table formulated by the Hon'ble Supreme Court in **Sarla Verma & others v. Delhi Transport Corporation and another**^[2]. Therefore, the loss of dependency works out to Rs.1,30,000/-. This

apart, the amount of Rs.10,000/- granted by the Tribunal towards loss of estate is maintained. However, the amount of Rs.2,000/- granted by the Tribunal towards other heads is enhanced to Rs.10,000/-.

10. Petitioners laid the claim for Rs.1,00,000/- only, but, certainly, they cannot be deprived of Rs.1,50,000/-, though, it exceeds the claim made by them, in view of the decisions of the Hon'ble Apex Court in **Nagappa v. Gurudayal Singh and others**^[3], **Sri Laxman @ Laxman Mourya v. Divisional Manager, Oriental Insurance Company Limited**^[4] and **Rajesh and others v. Rajbir Singh and others**^[5], wherein, it was held that it is the duty of the Courts to award just, equitable, fair and reasonable compensation with reference to the settled principles of law irrespective of the claim made.

11. Thus, the petitioners are entitled to a total sum of Rs.1,50,000/- (Rupees one lakh and fifty thousand) as against Rs.33,504/- granted by the Tribunal towards compensation and the same is accordingly granted. However, the petitioners are directed to pay Court fee on the excess amount granted by this Court than the claim within a period of three months from today.

12. So far as the rate of interest is concerned, the Tribunal granted the same at 9% per annum and the

same is maintained on the amount granted by the Tribunal and the interest at 7.5% per annum is granted on the enhanced amount in view of the decision of the Hon'ble Supreme Court in **Rajesh's** case (supra 5).

13. Accordingly, the instant appeal is allowed modifying the order 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.

14. As a sequel thereto, miscellaneous applications, if any pending in the instant appeal, stand closed.

A. SHANKAR NARAYANA, J

16th August, 2016

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[\[1\]](#) AIR 1988 AP 99

[\[2\]](#) (2009) 6 SCC 121

[\[3\]](#) AIR 2003 SC 674

[\[4\]](#) 2012 ACJ 191 (SC)

[\[5\]](#) 2013ACJ1403 = 2013(4)ALT35