

**HON'BLE SRI JUSTICE A. SHANKAR NARAYANA**

**M.A.C.M.A. No.1605 OF 2005**

**JUDGMENT:**

Having got dissatisfied with the award of Rs.1,16,960/- as compensation by the order dated 15.07.2004, in O.P. No.449 of 2000 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-Principal District Judge, Ranga Reddy District at L.B.Nagar (for short, 'the Tribunal') as against the claim of Rs.2,50,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') for the death of one B.Sailu, who was son of appellant No.1, husband of appellant No.2 and father of appellant Nos.3 and 4, the instant appeal is preferred under Section 173 of the Act seeking enhancement of compensation.

2. The appellants herein is the petitioners, while respondent Nos.1 and 2 herein, who are owner and insurer of the lorry bearing registration No.ABT 6669, 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. The claim was laid by the legal heirs of the deceased – Sailu, whose death occurred in a road

accident while he was proceeding in a lorry bearing registration No.ABT 6669 from Moinabad to Aziznagar, as he was engaged on the said lorry for the purpose of loading and unloading of gravel and since the driver drove it in a rash and negligent manner, when it reached Aziznagar, he lost control over it and hit another lorry bearing registration No.AP 13U 7088 coming in opposite direction and his death occurred instantaneously. The petitioners, claiming that the deceased was 28 years old earning Rs.2,000/- per month as labourer contributing the entire amount to the family, sought to grant Rs.2,50,000/- as compensation from respondent Nos.1 and 2, who are owner and insurer of the accident vehicle, i.e., lorry bearing registration No.ABT 6669.

5. Respondent No.1 remained *ex parte*. Respondent No.2 opposed the claim raising various pleas.

6. Basing on the said pleadings, the Tribunal framed three issues about the responsibility for the accident. During enquiry, petitioner No.2 examined herself as P.W.1 besides marking Exs.A.1 to A.5 to substantiate their claim; whereas, on behalf of respondent No.2-Insurance Company, no witnesses were examined, but a copy of insurance policy was marked as Ex.B.1 on consent.

7. On appraisal of evidence on record, the

Tribunal having appreciated the evidence on record, held issue No.1 in favour of the petitioners touching determination of compensation by the Tribunal taking the age of the deceased as 28 years and income at Rs.1,500/- per month or Rs.18,000/- per annum, deducted 1/3<sup>rd</sup> therefrom towards his personal expenses and taken Rs.12,000/- towards contribution to the family, applied multiplier 17.08 and arrived at Rs.2,04,960/- towards loss of dependency. Besides the same, the Tribunal also granted Rs.10,000/- towards loss of consortium and Rs.2,000/- towards funeral expenses, making a total of Rs.2,16,960/-, which the Tribunal has awarded to the petitioners as compensation mulcting liability on respondent Nos.1 and 2. However, the Tribunal has granted interest at 9% from the date of award till the date of deposit.

8. It is the aforesaid order which is under challenge in the instant appeal contending in the grounds that the Tribunal ought to have granted Rs.15,000/- towards loss of estate as per the decision in **Sushma Thomas v. Kerala Road Transport Corporation**<sup>[1]</sup> and Rs.15,000/- towards loss of consortium as against Rs.10,000/- granted by the Tribunal and ought to have awarded interest from the date of petition but not from the date of award and, therefore, sought to grant the balance amount.

9. Heard Sri B. Parameswara Rao, learned counsel for the appellants. Though, the appellants sought enhancement of compensation, learned counsel for the appellants states that except the period of interest, which was granted by the Tribunal from the date of passing of award till the date of realization instead of granting the same from the date of petition till the date of realization, the other grounds are not insisted.

10. The said submission of learned counsel for the appellants can be acceded to, since the Tribunal went wrong in granting interest from the date of award till realization instead of granting the same from the date of petition till realization. To that extent, the order and decree are modified, however, maintaining the order and decree in all other respects.

11. Accordingly, this appeal is partly allowed modifying the order and decree to the extent of period of interest, as indicated above and confirming the same in all other respects. There shall be no order as costs.

12. As a sequel thereto, miscellaneous petitions, if any pending in this appeal, shall stand disposed of.

---

**A. SHANKAR NARAYANA, J**

20<sup>th</sup> April, 2016

siva

---

[\[1\]](#) 1994(1) ALT (SC) 1