HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A No. 1809 OF 2009

JUDGMENT:

The present appeal is preferred by the erstwhile Andhra Pradesh State Road Transport Company, represented by its Chairman and Managing Director - 2nd respondent in O.P. No.105 of 2007 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-II Additional District Judge, Karimnagar at Jagtial (for short 'the Tribunal'), aggrieved over the award dated 05.12.2008 passed in the said O.P granting compensation of Rs.19,00,000/- for the death of one Akula Rajesh @ Rajaiah (hereinafter referred to as 'the deceased'), who was aged about 32 years, working as Reserve Sub Inspector, in a motor vehicle accident, mainly on the ground that the amount of compensation awarded by the Tribunal is excessive and arbitrary.

2. For the sake of convenience, the parties are hereinafter referred to as they were arrayed in the O.P. before the Tribunal.

3. The fact-situation leading to the death of the deceased in the accident is not disputed. In the grounds of appeal, in fact, the appellant would contend that the salary particulars filed by the claimants would disclose that the deceased was drawing a salary of Rs.9,169/- per month, but, the Tribunal went wrong in fixing his monthly salary at Rs.13,500/- and working out the compensation towards loss of dependency and other conventional sums.

4. Heard Sri A. Ravi Babu, learned Standing Counsel for Telangana State Road Transport Corporation appearing for the appellant and Sri Venkateswar Varanasi, learned counsel for respondents 1 to 3.

5. Though, notice was not served on respondent No.4, it is inconsequential for the reason that he was the driver of APSRTC bus that involved in the accident. Even otherwise, in the cause title, the appellant endorsed that respondent No.4 is not a necessary party to the present appeal.

6. The Tribunal having framed three issues examined P.Ws.1 to 3 and marked Exs.A.1 to A.7 on behalf of the claimants, whereas on behalf of the respondents, R.Ws.1 to 3 were examined, but no documents were marked.

7. Instead of referring to what the Tribunal has analysed on issue No.2, it would be appropriate to extract the relevant portions contained in paras 27 to 30 of the judgment, as under:

> "27. The deceased was drawing a salary of Rs.9,169/- per month as on the date of his death, which is rounded to the nearest figure of Rs.9,000/-. Keeping in view the future prospects which the deceased had in stable service as Reserve Sub Inspector in the light of his academic career and performance in A.P.S.P. during the period of nearly three years and also keeping in view the other imponderables like increments, pay revisions and rewards, his gross monthly salary would have shot up to atleast double than what he was drawing at the time of his

death, i.e., Rs.18,000/- per month had he survived in life and had he successfully completed his future service of 26 years till the time of superannuation on 31.12.2032. The average gross future monthly income could be arrived at by adding the actual gross income at the time of death, namely, Rs.9,000/- per month to the maximum, which he would have otherwise got has he not died a premature death i.e., Rs.18,000/- per month and diving that figure by two. Thus, the average gross monthly income spread over his entire future career, had it been available, would work out to Rs.18,000/- + Rs.9,000/- = Rs.27,000/- divided by 2 i.e., Rs.13,500/-. Rs.13,500/- per month would have been the gross monthly average income available to the family of the deceased had he survived as a sole bread winner. From that gross income at least 1/3rd will have to be deducted by way of his personal expenses and other liabilities like payment of income tax etc. That would roughly work out to Rs.4,500/- per month and deducting the same by way of average personal expenses of the deceased from average gross earning of Rs.13,500/- per month, the balance of Rs.9,000/- per month or Rs.1,08,000/- per annum would have been the average amount available to the family of the deceased i.e., claimants herein.

28. The deceased was aged 32 years as on the date of accident. The relevant multiplier applicable as per Second Schedule is 15.83. However, by relying on the decision reported in Supe Devi and others vs. National Insurance Co. Ltd., and another {(2002 (3) T.A.C. 378 (S.C)} and considering the fact that the deceased died in the accident at young age of 32 years, adding to the multiplier and rounding it to the nearest figure, the relevant multiplier applicable is ‘17’.

29. As the annual dependency is considered as Rs.1,08,000/- and relevant multiplier as 17, the claimants are entitled to a sum of Rs.18,36,000/- towards pecuniary compensation.

30. Besides that, the claimants are entitled to an amount of Rs.2,000/- towards funeral expenses, an amount of Rs.2,000/- towards transportation, an amount of Rs.5,000/- towards loss of estate, an amount of Rs.20,000/- towards loss of love and affection to the claimant No.2 and considering the age of the claimant No.1 who is aged 24 years and lost her husband at young age, an amount of Rs.35,000/- towards consortium, totally a sum of Rs.64,000/- towards non-pecuniary damages. Thus, on all counts, the claimants are entitled to a total compensation of Rs.19,00,000/-."

8. The sum and substance of the above paragraphs is that the Tribunal having taken the monthly salary of the deceased at Rs.9,169/-, rounded it off to Rs.9,000/- and keeping in view, the other imponderables like increments, pay revisions and rewards, arrived at Rs.13,500/- per month and by deducting 1/3rd from it towards his personal expenses, worked out his monthly income at Rs.9,000/-. Since the deceased was aged 32 years at the time of accident, the Tribunal applied multiplier '17' and arrived the loss of dependency at Rs.18,36,000/-. Besides the same, the Tribunal awarded Rs.64,000/- towards non-pecuniary damages. Thus, in total, the Tribunal awarded a sum of Rs.19,00,000/- as compensation.

9. It is no doubt true, that a laborious exercise was done by the Tribunal to arrive at just and fair compensation. However, principles

have been well established by the law declared by the Hon'ble Supreme Court, though not, when the O.P was disposed of on 05.12.2008, but subsequently in ***Sarla Verma & others v. Delhi Transport Corporation and another***[1]**.** Turning to determination of compensation, Rs.80/-, which was being paid by the deceased towards professional tax, has to be deducted from his monthly salary and if the said amount is deducted from Rs.9,169/-, the balance amount available for working out the compensation would be Rs.9,089/-. In view of the fact that the deceased was aged 32 years on the date of accident, the claimants are entitled to 50% of loss of dependency towards future prospects, which works out to Rs.4,544/-. Thus, the total loss of dependency to which the claimants are entitled, is Rs.13,633/-, which includes future loss of prospects, or Rs.1,63,596/- per annum. Since the dependants on the deceased were three in number, the permissible deduction is 1/3rd towards the personal expenses of the deceased, which works out to Rs.54,532/- and when the same is deducted, Rs.1,09,064/- would be the actual contribution to his family including the addition of future prospects proportionately. The relevant multiplier as per ***Sarla Verma's*** case is '16' and when the same is applied, the loss of dependency works out to Rs.17,45,024/-. That apart, the claimants are entitled to Rs.50,000/- towards conventional sum in view of the decision of the Hon'ble Supreme Court in **Ramilaben Chinubhai Parmar Vs. National**

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[1] (2009) 6 Supreme Court Cases 121

Insurance Company[2] as against Rs.64,000/- granted by the Tribunal. Thus, in total the claimants are entitled to Rs.17,95,024/-, as against Rs.19,00,000/- awarded by the Tribunal.

10. Accordingly, the compensation awarded by the Tribunal is reduced from Rs.19,00,000/- to Rs.17,95,024/- (Rupees seventeen lakhs ninety five thousand and twenty four). Insofar as the interest is concerned, the Tribunal has awarded the same @ 8.5% per annum. Strangely, the appellant has not questioned the rate of interest in the grounds of appeal. In fact, the compensation awarded by the Tribunal since been reduced, the rate of interest awarded by the Tribunal is maintained on the compensation of Rs.17,95,024/-.

11. Accordingly, the Civil Miscellaneous Appeal is allowed in part modifying the impugned award passed by the Tribunal, by reducing the compensation as stated supra. There shall be no order as to costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

A. SHANKAR NARAYANA, J

Date: 24.08.2016
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[2] LAWS (SC) -2014-4-67