

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A.No.3153 OF 2005

JUDGMENT:

The petitioners having got dissatisfied with the award of Rs.1,25,000/- as compensation by order and decree, dated 21.07.2005, in O.P.No.595 of 2001 on the file of Chairman, Motor Accidents Claims Tribunal – cum – V Additional District Judge (Fast Track Court), Ranga Reddy District at L.B. Nagar, as against the claim of Rs.2,00,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act'), preferred the instant appeal, under Section 173 of the Act, seeking to grant the balance amount for the death of one Laxmaiah, who is the son of petitioner No.1, incidentally elder brother of petitioner No.2.

2. The appellants are the petitioners, whereas respondent Nos.1 and 2, who are the owner and insurer of the offending vehicle, are respondent Nos.1 and 2 in the O.P. before the Tribunal.

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

4. The fact situation would show that one Laxmaiah, aged about 25 years, was employed as cleaner of lorry

bearing registration No.ADT-8571 earning Rs.3,000/- per month besides batta and on 06.04.2001, while the said lorry was coming from Thalakondapally to Hyderabad, at about 00:30 AM, when it reached Maheshwaram Gate on Hyderabad – Srisailem road, it dashed a stationed lorry bearing registration No.ADT-9386, due to which, the said Laxmaiah sustained grievous injuries and immediately, he was shifted to Osmania General Hospital, where he succumbed to the injuries. The petitioners, claiming that they were dependants of the deceased Laxmaiah, who died in unmarried status and contributing the entire amount for the sustenance of the family, sought a sum of Rs.2,00,000/- as compensation.

5. Before the Tribunal, respondent No.1 filed counter resisting the claim, but, however, stated that the offending lorry was insured with respondent No.2 and therefore, it has to indemnify him and thereby, sought to dismiss the claim petition against him.

6. Respondent No.2 opposed the claim by raising various pleas and reserved its defence under sections 147, 149 and 170 of the Act.

7. Based on the said pleadings, in the direction of accounting for responsibility about the accident, the Tribunal has framed three issues. During enquiry, petitioner No.1 examined himself as PW.1 besides

examining one Bandaiah as PW.2 and marked Exs.A1 to A6 to substantiate the claim laid. On behalf of the respondents, no witnesses were examined, but a copy of the Insurance Policy was marked as Ex.B1 on consent.

8. The Tribunal, by recording the finding in favour of the petitioners on issue No.1, deliberated on issue No.2 as to determination of compensation and in the said process, it has taken Rs.1,500/- per month or Rs.18,000/- per annum as earnings of the deceased and after deducting 1/3rd therefrom towards personal expenses of the deceased, though the deceased died in unmarried status, by applying multiplier '8' based on the decision of this Court in **K. Mathura Bai and others v. A. Shiva Nageshwar Rao and others**^[1], worked out the loss of dependency at Rs.96,000/-. Besides the same, the Tribunal has also awarded Rs.15,000/- towards loss of estate, Rs.10,000/- towards loss of love and affection and Rs.4,000/- towards transport of dead body and funeral expenses, thus, making a total of Rs.1,25,000/-.

9. It is the aforesaid order which is under challenge in the instant appeal on the ground that meagre compensation was granted without properly appreciating the evidence on record and taking the age of father of the deceased as 55 years, though he was only 45 years old, sought to grant the balance amount.

10. Heard Sri K. Veera Setty, learned counsel for the appellants and Sri E. Venugopal Reddy, learned counsel for respondent No.2. Despite service of notice on respondent No.1, none appears.

10. There is absolutely nothing to probe into. Even by applying structural formula, by deducting half of the earnings of the deceased, his contribution to the family while he was alive works out to Rs.9,000/- per annum and by applying relevant multiplier, in view of the decision of the Honourable Supreme Court in **Munna Lal Jain and another v. Vipin Kumar Sharma and others**^[2], and granting other amounts awarded by the Tribunal by enhancing the amount of Rs.4,000/- awarded towards transportation of dead body and funeral expenses to Rs.10,000/-, the compensation would roughly works out to Rs.2,00,000/-. Learned counsel for respondent No.2 - Insurance Company fairly concedes that it would be just and equitable if Rs.2,00,000/-, as prayed for, is granted as compensation. Thus, Rs.2,00,000/- is granted towards compensation as claimed by the petitioners with interest at 7.5% per annum thereon from the date of petition till realisation.

11. Accordingly, the instant appeal is allowed. There shall be no order as to costs.

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

A. SHANKAR

NARAYANA, J

April 01, 2016.
MD

[\[1\]](#) 2004 (3) ALD 658

[\[2\]](#) (2015) 6 SCC 347