HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.2680 OF 2005

JUDGMENT:

The instant appeal is preferred by parents and younger sister of Shripal Reddy, whose death occurred in a road accident, seeking enhancement of compensation on the ground that the award of Rs.3,12,000/- granted as compensation was on lower side. The Chairman, Motor Accident Claims Tribunal-cum-Principal District Judge, Medak at Sanga Reddy (for short, 'the Tribunal'), passed the order dated 07.06.2005 in O.P.No.706 of 2003 granting the aforesaid compensation with interest at 9% per annum.

2. The appellants herein are the petitioners, while respondent Nos.1 & 2 herein, the Andhra Pradesh State Road Transport Corporation, represented by its Depot Manager of Banswada Depot and the Managing Director, Hyderabad (for short, 'Corporation'), are respondent Nos.1 & 2 respectively, in the original petition.

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 facts in brief are that on 30.10.2003 at about 9.30 a.m., the said Shripal Reddy (deceased) was riding motor bike bearing registration No.AP-23/D-4080 from

Raincheru village to Medak and when he reached the village outskirts, an RTC bus bearing registration No.AP-11/Z-1129, driven in a rash and negligent manner, dashed the motor cycle, due to which, he sustained head injuries and when he was being shifted to Gandhi Hospital, Secunderabad, he succumbed to injuries. The petitioners, claiming that the deceased, who was aged 20 years and doing agriculture and also milk business, earning Rs.15,000/- per month was contributing the entire earnings for the maintenance of the family and, therefore, sought a sum of Rs.5,00,000/- as compensation under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act'), against respondent Nos.1 and 2, who represent the Corporation.

5. The respondents filed a common counter opposing the claim by attributing negligence on the part of the deceased stating that the deceased suddenly emerged from left side to the right side of the road from behind the bushes and dashed the right side front bumper of the RTC bus and, thereby, sought to dismiss the claim petition.

6. Basing on the said pleadings, the Tribunal framed three issues in order to determine the compensation and the liability of the respondents. During enquiry, on behalf of the petitioners, P.Ws.1 to 4 were examined and Exs.A1 to A7 were marked; whereas, on behalf of the respondents, the driver of the RTC bus bearing registration

No.AP-11/Z-1129 was examined as R.W.1, but no documents were filed.

7. The Tribunal, having appreciated the evidence of P.W.2 and R.W.1 and considering the documentary evidence marked as Ex.A1-copy of the FIR and Ex.A2-copy of the charge sheet, reflecting that R.W.1 was shown as the accused, and basing on the contents of Ex.A3-copy of the M.V.I Report, showing that the accident did not occur due to any mechanical defect in the RTC bus, disbelieved the evidence of R.W.1 and recorded the finding on issue No.1 in favour of the petitioners.

8. On issue No.2, the Tribunal, having analysed the evidence of P.W.3, who was the Sarpanch at the relevant time and who issued Ex.A6-income certificate of the deceased, did not believe the evidence of P.W.3 and excluded Ex.A6 on the ground that P.W.3 was not a competent authority to issue Ex.A6 and even disbelieved the evidence of P.W.4 as to the supply of 30 litres of milk daily by the deceased to his hotel, but however, taken the income of the deceased at Rs.3,000/- per month and, by deducting 1/3rd there from towards personal expenses, taken the remainder i.e., Rs.2,000/- per month or Rs.24,000/- per annum as the contribution of the deceased to the family. Taking the age of the mother of the deceased, who was 38 years old, the Tribunal considered multiplier

“13” and, by applying the same, arrived at Rs.3,12,000/- (24,000 x 13) as compensation and awarded the same with interest at 9% per annum. No other amounts were awarded under any other heads.

9. It is the aforesaid order which is questioned in the instant appeal preferred by the petitioners seeking enhancement of compensation contending in the grounds that the Tribunal has not fixed the income of the deceased properly and it fixed the income on guess work, without considering the income certificate produced by the petitioners, and placed reliance on the decisions of the Hon’ble Supreme Court in **General Manager, Kerala State Road Transport Corporation vs. Smt. Susamma Thomas & Others**[1], **Manju Devi vs. Musafir Paswan**[2]**, Ashwani Kumar Mishra vs. P.Muniam Babu and others**[3]**, Dr.K.G.Poolvaiah vs. General Manager/Managing Director, Karnataka State Road Transport Corporation**[4] and **Lata Wadhwa vs. State of Bihar**[5]**.** It is also stated that the Tribunal did not apply the maximum multiplier as per the decisions of the Hon’ble Apex Court in **Chinnama George and others vs. N.K.Raju and another**[6]**, Tara Kakati vs. Oriental Insurance Co. Ltd**[7]**, Lata Wadhwa’s** case (supra 5) and **Manju Devi’s** case (supra 2). It is also stated that the Tribunal did not award the conventional

amount of Rs.25,000/- each and, thus, just and adequate compensation was not granted and even interest ought to have been granted at 12% per annum.

10. Heard Sri K. Sarala Mahender Reddy, learned counsel for the appellants. On behalf of respondent Nos.1 and 2, though notices were served on them, none appears for them. Hence, proceeded with disposal of the case based on material available on record.

11. Learned counsel for the appellants submits that no appeal was preferred by the respondents herein challenging the very same order and decree and, therefore, the findings recorded by the Tribunal on issue No.1 remain undisturbed. Concerning the determination of compensation, learned counsel for the appellants relied on a decision of the Hon'ble Supreme Court in **Munna Lal Jain and another vs. Vipin Kumar and others**[8] for the proposition that there shall be addition of 50% towards future prospects and that the age of the deceased has to be taken for determining the multiplying factor, though the deceased died in unmarried status.

12. Perused the order under challenge and the evidence on record, both, oral and documentary, let in by the parties.

13. The Tribunal, in fact, did not take into

consideration Ex.A6 and the evidence of P.W.3 for the purpose of fixing the earnings of the deceased by recording reasons based on appreciation of evidence. Therefore, the said finding does not warrant any interference. However, concerning the deduction, the Tribunal has deducted 1/3rd instead of deducting 50%, as the deceased died in unmarried status. Therefore, the same is set right by deducting 50% from Rs.3,000/- monthly income of the deceased. Thus, the contribution of the deceased to the family works out to Rs.1,500/- per month or Rs.18,000/- per annum. When 50% thereof is added towards future prospects as per the decision in **Munna Lal Jain's** case (supra 8), it works out to Rs.27,000/- per annum. The relevant multiplier is "18" for the persons in the age group 16 to 20 in view of the decision of the Hon'ble Supreme Court in **Sarla Verma & others vs. Delhi Transport Corporation and another**[9] and, when the same is applied to the multiplicand worked out above, the loss of dependency works out to Rs.4,86,000/- (Rs.27,000 x 18) and the same is awarded accordingly. Since the Tribunal has not awarded any conventional sum and the petitioners, in their grounds of appeal, pleaded the award of conventional amount also, a sum of Rs.30,000/- is awarded towards funeral expenses and loss of estate put together, and, thus, the petitioners are entitled to Rs.5,16,000/- (Rs.4,86,000 + 30,000) as compensation. Thus, the compensation of Rs.3,12,000/- is enhanced to Rs.5,16,000/-.

14. Though the compensation of Rs.5,16,000/- determined exceeds the claim of Rs.5,00,000/-, there is no prohibition to award the same in arriving at just and adequate compensation in view of the decisions of the Hon'ble Apex Court in **Nagappa vs. Gurudayal Singh and others**[10]**, Sri Laxman @ Laxman Mourya vs. Divisional Manager, Oriental Insurance Company Limited**[11] and **Rajesh and others vs. Rajbir Singh and others**[12]. However, the petitioners are directed to pay Court fee on the excess amount of Rs.16,000/- within a period of three months from today to the credit of the O.P.

15. 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 of Rs.3,12,000/- granted by the Tribunal, and on the enhanced amount, the petitioners are entitled to interest at 7.5% per annum from the date of petition till realization in view of the decision of the Hon'ble Supreme Court in **Rajesh's** case (supra 12).

16. 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.

17. As a sequel thereto, miscellaneous applications, if any, pending in the instant appeal, stand disposed of.

A. SHANKAR NARAYANA, J

11th February, 2016
v v

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[1] AIR 1994 SC 1634

[2] 2005 ACJ 99 (SC)

[3] (1999) 4 SCC 22

[4] 2001 (9) SCC 167

[5] 2001 (8) SCC 197

[6] (2000) 4 SCC 130

[7] (2001) 9 SCC 253

[8] (2015) 6 SCC 347

[9] (2009) 6 SCC 121

[10] AIR 2003 SC 674

[11] 2012 ACJ 191 (SC)

[12] 2013 ACJ 1403