THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.CMA.No.677 OF 2009

JUDGMENT:

Respondent Nos.1 and 2, constituting A.P.S.R.T.C., in O.P.No.3002 of 2005 on the file of Chairman, Motor Accidents Claims Tribunal – cum – Chief Judge, City Civil Court, Hyderabad, preferred the instant appeal, under Section 173 of the Motor Vehicles Act, 1988, aggrieved by the order and decree, dated 21.01.2008, passed in the said O.P., whereby and whereunder, the Tribunal has granted a sum of Rs.13,40,000/- towards compensation as against the claim of Rs.20,00,000/- laid by the petitioners – claimants, mainly on the grounds that the Tribunal went wrong in applying multiplier '16' as against '15' and also the Tribunal was not correct in taking Rs.1,23,000/- as the annual income of the deceased Yerukala Venkataiah, basing on Ex.A5. Rest of the things are not in dispute, as could be gathered from the grounds raised in the present appeal.

2. The appellants are respondent Nos.1 and 2, whereas the respondents are petitioners 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 facts in brief are that on 29.04.2005, while one Yerukala Venkataiah was coming from Hyderabad to the house of his parents-in-law at Gangapuram on motorcycle, at about 04:30 PM near Mothkur old bus stand, an R.T.C. bus bearing registration No.AP-10-Z-1237 driven at high speed in a rash and negligent manner hit the said Yerukala Venkataiah, due to which, the right rear tyre of the bus ran over him, resulting in his death. The petitioners, being the wife, children and parents of the deceased, sought a sum of Rs.20,00,000/- as compensation.

5. The respondents filed counter opposing the claim.

6. Based on the said pleadings, in the direction of accounting for responsibility about the accident, the Tribunal has framed three issues.

7. During enquiry, petitioner No.1 examined herself as PW.1 besides examining PWs.2 and 3 and marked Exs.A1 to A10 to substantiate the claim laid. On behalf of the respondents, no evidence, either oral or documentary, was let in.

8. The Tribunal, having analysed the evidence on record, held issue No.1 in favour of the petitioners touching the negligence that accounted for taking place of the accident resulting in the death of deceased, Yerukala

Venkataiah, whose wife, children and parents, are the petitioners. On issue No.2, the Tribunal, taking into consideration the income tax returns of the deceased, Ex.A5, as it happens to be the latest one, reflecting the annual income of the deceased at Rs.1,23,000/-, having deducted 1/3rd therefrom towards his personal expenses, arrived at Rs.82,000/- as annual contribution to the family and by applying multiplier '16' arrived at Rs.13,12,000/- towards loss of dependency. Besides the same, the Tribunal has granted Rs.15,000/- towards loss of estate, Rs.2,000/- towards funeral expenses and Rs.11,000/- towards loss of consortium, thus, making a total of Rs.13,40,000/- with interest at 6% per annum.

9. Heard Sri N. Vasudeva Reddy, learned Standing Counsel for the appellants and Sri Venkateswar Varanasi, learned counsel for the respondents – claimants.

10. Learned counsel for the appellants would submit that the Tribunal ought to have applied multiplier '15' and ought to have made deduction, if any amount was paid towards income tax and therefore, seeks interference of this Court.

11. On the other hand, learned counsel for the respondents – claimants would submit that since the dependants are five in number, 1/4th deduction is permissible towards personal expenses of the deceased

in view of the decisions of the Honourable Supreme Court in **Sarla Verma v. Delhi Transport Corporation**[1] **and Rajesh and others v. Rajbir Singh and others**[2] and the Tribunal ought to have granted future prospects and thus, supports the order of the Tribunal.

12. Perused the order under challenge and the material on record.

13. In fact, in view of the legal principles laid down in **Sarla Verma's case (supra 1) and Rajesh's case (supra 2),** 1/4th of the annual income of the deceased ought to have been deducted towards personal expenses and ofcourse, the relevant multiplier would be '15', but not '16', but, however, the same gets adjusted in view of the fact that the Tribunal has made 1/3rd deduction towards personal expenses and applied multiplier '16'. Further, future prospects were not considered.

14. It is no doubt true that nothing is seen in paragraph No.9 of the order under challenge whether any amount was paid by the deceased towards income tax. It appears that since the amount of Rs.1,23,000/- was not taxable during the year 2005, the Tribunal has not entered into that arena. Even the interest granted was at 6% per annum.

15. Thus, when viewed from the above, certainly, no

merit is to be found in this appeal and the order passed by the Tribunal does not suffer from any legal infirmity warranting interference.

16. The appeal is, therefore, dismissed confirming the order and decree under challenge in all respects. Miscellaneous Petitions, if any, pending in this appeal, shall stand closed. There shall be no order as to costs.

A. SHANKAR NARAYANA, J

July 21, 2016.
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[1]. 2009 (3) ALD 83 (SC)
[2] (2013) 9 SCC 54