

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.2545 OF 2009

JUDGMENT:

Dissatisfied with the award of Rs.1,60,000/- as compensation for the death of one A. Srinivas, brother of petitioners, as against the claim of Rs.2,00,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act'), by the order and decree, dated 19-06-2007, passed in O.P. No.898 of 2005, by the learned Chairman, Motor Accident Claims Tribunal - cum - I Additional District Judge, Mahabubnagar (for short 'the Tribunal'), the petitioners preferred the present appeal under Section 173 of the Act seeking to grant balance amount.

2. Since no appeal is preferred by respondent - erstwhile Andhra Pradesh State Road Transport Corporation, there cannot be any challenge to the fact-situation occurring in the instant case.

3. The Tribunal having framed three issues and examining PWs.1 and 2 and marking Exs.A-1 to A-5, taking the notional income as Rs.18,000/- per annum, as the deceased was shown as 'agricultural coolie' computed at Rs.50/- as daily earnings; deducted 50% towards personal expenses as he died in unmarried status and applied multiplier factor '17' taking his age as 20 years; and arrived at Rs.1,53,000/- towards loss of dependency. The Tribunal has also granted Rs.5,000/- towards loss of estate and Rs.2,000/- towards

funeral expenses, making a total of Rs.1,60,000/- and awarded the same with interest at 7.5% per annum.

4. Heard Sri T. Damodar, learned counsel for the appellants - petitioners. Though, process was completed on respondent's Corporation, none appears for it.

5. The learned counsel for the appellants - petitioners would submit that the Tribunal ought to have taken Rs.100/- per day as the earnings and computed the compensation and, therefore, sought to grant the balance amount.

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

7. In fact, except petitioner No.3, who was 12 years old on the date of accident in which death of A. Srinivas took place, the other two petitioners being elders and described as coolies cannot be construed as dependants on the deceased in strict sense.

8. It is not in dispute that the deceased died in unmarried status. The Tribunal applied multiplier factor '17' instead of '18' as per the table formulated by the Hon'ble Supreme Court in **Sarla Verma & others v. Delhi Transport Corporation and another**¹, in which case, compensation works out to Rs.1,62,000/- [50% of Rs.18,000/- x 18]. The other amounts granted by the Tribunal appear to be on lower

¹. (2009) 6 Supreme Court Cases 121

side. Therefore, granting a sum of Rs.2,00,000/- by enhancing the compensation from Rs.1,60,000/- would be just and adequate when a death of an earning person.

9. Even, the rate of interest awarded by the Tribunal at 7.5% per annum is in tune with the decision of the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**². Therefore, the same is maintained.

10. In the result, the appeal is allowed, and the order and decree, dated 19-06-2007, in O.P. No.898 of 2005, passed by the Tribunal are modified enhancing the compensation to Rs.2,00,000/- (Rupees two lakhs) from Rs.1,60,000/- with interest at 7.5% per annum thereon from the date of petition till realization. The enhanced compensation shall be apportioned proportionately as apportioned by the Tribunal. No order as to costs.

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

A. SHANKAR NARAYANA, J

November 15, 2016.

Mgr

². 2013 ACJ 1403