HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A No. 1857 OF 2009

JUDGMENT:

The petitioners/claimants in O.P.No.269 of 2006 on the file of the Chairman, Motor Accidents Claims Tribunal – cum – I Additional District Judge, Adilabad (for brevity 'the Tribunal'), preferred the present appeal against the judgment and decree dated 17.02.2009 passed in the said O.P, whereby and whereunder, the Tribunal granted compensation of Rs.1,40,000/- as against the claim of Rs.3,00,000/- laid under Sections 166 and 163-A of the Motor Vehicles Act, 1988, for the death of their son, Sunil Pawar (hereinafter referred to as 'the deceased'), who died at the age of 22 years in a motor accident.

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

3. The fact-situation leading to the death of the deceased in the accident that occurred on 10.02.2006 is not disputed. The only dispute is that there is no material to show that the deceased was working as a mason, earning Rs.200/- to Rs.300/- per day.

4. Heard Sri Lakkadi Dayakar Reddy, learned counsel for the appellants and Sri N. S. Bhaskar Rao, learned Standing Counsel for the second respondent.

5. The first respondent though, served with the notice, none appears for him.

6. Perused the order under appeal and the material and evidence on record.

7. The finding recorded by the Tribunal on issue No.1 is unnecessary to deal with, as the request of the appellants herein is for enhancement of compensation.

8. On issue No.2, the Tribunal has taken the age of the deceased as 22 years basing on the contents of certified copies of the post mortem report – Ex.A.2 and charge sheet-Ex.A.3. Concerning the income, the Tribunal did not believe the stand of the appellants that the deceased was working as a mason, earning Rs.200/- to Rs.300/- per day on his profession. In the direction of proving that the deceased was working as a mason, reliance was placed on the evidence of P.W.2, who is no other than cousin of the deceased. The Tribunal, while holding that there is no documentary evidence available and the inquest report was not submitted, which would have projected the profession of the deceased, resorted to take the income of the deceased at Rs.15,000/- per annum, as per II Schedule to Section 163-A of the Act. The Tribunal then deducted 1/3rd from it and taken Rs.10,000/- per annum towards the contribution to his family and applied multiplier '13' basing on the age of mother of the deceased, who was aged 48 years, and arrived at Rs.1,30,000/- towards loss of dependency. Besides the same, the Tribunal has granted Rs.10,000/- towards love and affection and loss of estate. Thus, the Tribunal granted Rs.1,40,000/- as compensation.

9. The short question involved in the instant appeal is whether the amount granted by the Tribunal is just and adequate or whether the appellants are entitled to enhancement?

10. Though, there is no evidence on record to prove the profession of the deceased, still, the learned Standing Counsel for the insurance company basing on the judgment of the Supreme Court in ***Kishan Gopal & another Vs. Lala & others***[1] would submit that the income of the deceased can be taken at Rs.30,000/- per annum and the compensation to which the appellants are entitled can be resorted to. But, however, he expressed the view that the age of the younger parent of the deceased can be taken for relevant multiplier factor. Later, having gone through the decision of the Supreme Court in ***Munna Lal Jain & Anr vs Vipin Kumar Sharma & Ors***[2], he fairly concedes that the age of the deceased is the criteria to reckon the relevant multiplier factor, as provided in the table formulated in the decision of the Hon'ble Supreme Court in ***Sarla Verma & others v. Delhi Transport Corporation and another***[3], in which event, the relevant multiplier would be '18'. Therefore, the amount of Rs.3,00,000/- as claimed by the appellants/claimants can be granted.

11. In the result, the Civil Miscellaneous Appeal is allowed, enhancing the amount of compensation from Rs.1,40,000/- to Rs.3,00,000/- (Rupees three lakhs only). The rate of interest awarded

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[1] (2014) 1 SCC 244
[2] 2015 (6) SCC 347
[3] (2009) 6 Supreme Court Cases 121

by the Tribunal @ 7.5% per annum is maintained even on the enhancement amount from the date of petition till realisation. No order as to costs.

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

A. SHANKAR NARAYANA, J

Date: 24.08.2016
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