

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.1341 OF 2009

JUDGMENT:

Having got dissatisfied with the award of Rs.7,60,320/- as compensation by the order dated 11.01.2007 in M.V.O.P. No.521 of 2003 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-II Additional District Judge, Guntur (for short, 'the Tribunal') as against the claim of Rs.14,00,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') for the death of one Emani Anjaneyulu in a road accident, the instant appeal is preferred under Section 173 of the Act seeking enhancement of compensation.

2. The appellants herein, who are wife and children of the said Anjaneyulu, are the petitioners, while respondent Nos.1 and 2 herein, who are the owner and insurer of the lorry bearing registration No.AIP 9848, are respondent Nos.1 and 2, respectively, in the original petition.

3. For the sake of convenience, the parties hereinafter referred to as they were arrayed before the Tribunal in the original petition.

4. The facts in brief are that on 31.05.2003 at about 1-30 p.m., while the said Anjaneyulu (deceased) was coming on his TVS Moped from Vijayawada to Undavalli and reached Kanakadurga Varadhi on national highway No.5, a lorry bearing registration No.AIP 9848, coming in opposite direction, driven it in a rash and

negligent manner at high speed, hit the TVS Moped, due to which, he sustained injuries and was shifted to Help Hospital, Vijayawada for treatment, where he succumbed to injuries on the same day. Usual formalities were followed by the concerned police. The petitioners, claiming that the deceased was working as Assistant Lineman in A.P.Transco, Southern Power Distribution Company, Suryaraopet, Vijayawada, drawing Rs.15,500/- salary and also seeking future prospects, sought the aforesaid amount as compensation.

5. Respondent No.1-owner of the accident vehicle remained *ex parte*. Respondent No.2-insurer opposed the claim raising various pleas, which, of course, unnecessary to refer to.

6. Basing on the said pleadings, the Tribunal framed four issues about the responsibility for the accident.

7. During enquiry, petitioner No.2 examined himself as P.W.1 besides examining one B.Bhanu Prasad as P.W.2 and marked Exs.A.1 to A.6 besides marking Exs.X.1 and X.2 to substantiate their claim; whereas, on behalf of respondent No.2-Insurance Company, no witnesses were examined and no documents were filed.

8. On appraisal of evidence on record, the Tribunal held issue Nos.1 to 3 in favour of the petitioners; and on issue No.4, which relates to determination of compensation, the Tribunal basing on the evidence of P.W.2-Junior Accounts Officer of A.P.Transco, Suryaraopet, Vijayawada, taken the gross salary of Rs.15,215/- per

month without any deductions, applied multiplier '6' taking the age of the deceased as 53 years and arrived the loss of dependency at Rs.7,30,320/-. Besides the same, the Tribunal also granted Rs.15,000/- each towards loss of estate and consortium making a total of Rs.7,60,320/- with interest at 6% per annum.

9. It is the aforesaid order which is under challenge in the instant appeal contending in the grounds that the Tribunal ought to have taken Rs.3,000/- more per month in assessing compensation and even the rate of interest awarded by the Tribunal is on lower side and, therefore, sought to grant the balance amount.

10. Heard Sri A.Rajendra Babu, learned counsel for the appellants-petitioners. Though, service was completed on respondent Nos.1 and 2, none appears for them.

11. Perused the order and the evidence on record. The salary certificate, marked as Ex.X.1, would show that the gross salary of the deceased was Rs.15,215/- and deductions at Rs.6,587-40 paise and net salary at Rs.8,627/-. From the gross salary, the professional tax of Rs.100/- has to be deducted. When the same is deducted, it works out to Rs.15,115/- per month and Rs.1,81,380/- would be the annual earnings for determining compensation. $\frac{1}{3}^{\text{rd}}$ thereof, i.e., Rs.60,460/- (Rs.1,81,380/- $\div$ 3), when deducted towards personal expenses, the contribution of the deceased to the family would work out to Rs.1,20,920/- (Rs.1,81,380/- – Rs.60,460/-). The multiplier factor is

‘11’ for the age group of the deceased, who was 53 years at the relevant time, in view of the decision of the Hon’ble Supreme Court in **Sarla Verma & others v. Delhi Transport Corporation and another**¹ and when the same is applied, the loss of dependency works out to Rs.13,30,120/- (Rs.1,20,920/- x 11). The petitioners are also entitled to 15% thereof towards future prospects in view of the decision of Hon’ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**², which works out to Rs.1,99,518/-. Thus, the petitioners are entitled to Rs.15,29,638/- towards loss of dependency including future prospects. This apart, the petitioners are entitled to Rs.50,000/- towards conventional sum in view of the decision of the Hon’ble Supreme Court in **Ramilaben Chinubhai Parmar Vs. National Insurance Company**³, as against Rs.30,000/- granted by the Tribunal towards loss of estate and consortium.

12. Petitioners laid the claim for Rs.14,00,000/- only, but, certainly, they cannot be deprived of Rs.15,79,638/-, though, it exceeds the claim made by them, in view of the decisions of the Hon’ble Apex Court in **Nagappa v. Gurudayal Singh and others**⁴, **Sri Laxman @ Laxman Mourya v. Divisional Manager, Oriental Insurance Company Limited**⁵ and **Rajesh’s case (supra 2)**, wherein, it was held that it is the duty of the Courts to award just, equitable, fair

¹ (2009) 6 SCC 121

² 2013 ACJ 1403

³ LAWS (SC) -2014-4-67

⁴ AIR 2003 SC 674

⁵ 2012 ACJ 191 (SC)

and reasonable compensation with reference to the settled principles of law irrespective of the claim made.

13. Thus, the petitioners are entitled to a total sum of Rs.15,79,638/- (Rupees fifteen lakh seventy nine thousand six hundred and thirty eight) as against Rs.7,60,320/- granted by the Tribunal towards compensation and the same is accordingly granted. The enhanced compensation shall be apportioned among the petitioners as directed by the Tribunal. However, the petitioners are directed to pay Court fee on the excess amount granted by this Court than the claim within a period of three months from today.

14. So far as the rate of interest is concerned, the Tribunal granted the same at 6% per annum and the same is on lower side and not in accordance with law and the interest at 7.5% per annum is granted on the entire amount of compensation in view of the decision of the Hon'ble Supreme Court in **Rajesh's** case (supra 2).

15. Accordingly, the instant appeal is allowed modifying the order passed by the Tribunal, by enhancing the compensation as well as the rate of interest, as indicated above, and confirming the same in all other respects. There shall be no order as to costs.

16. As a sequel thereto, miscellaneous applications, if any pending in the instant appeal, stand closed.

A. SHANKAR NARAYANA, J

10th August, 2016

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