

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.776 OF 2009

JUDGMENT:

The present appeal is preferred by the New India Assurance Company Limited, which is respondent No.2 in M.V.O.P.No.1182 of 2002 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-District Judge, Guntur (for short, 'the Tribunal'), under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), assailing the order dated 31.10.2007, passed in the said original petition granting compensation of Rs.9,42,000/- with interest at 7% per annum, as against the claim of Rs.15,00,000/- laid under Section 166 of the Act for the death of one Nelapati Jeevan Kumar, who was the husband of respondent No.1, father of respondent No.2 and son of respondent No.s.3 and 4 herein, on the ground that the said compensation is highly excessive.

2. The appellant is respondent No.2, while respondent Nos.1 to 4, who are the wife, son and parents of the deceased, were petitioner Nos.1 to 4 in the original petition.

3. Since the fact-situation is not in dispute, it is not necessary to refer to the facts.

4. Heard Sri K.Subba Rao, learned Standing Counsel for the appellant, and Sri K.V.R.Krishna Sarma,

learned counsel for respondent Nos.1 to 4.

5. The Tribunal, for the death of Nelapati Jeevan Kumar (deceased), who was working as an Assistant Engineer in the Office of Electricity Department at Palakonda, Srikakulam District, granted the compensation of Rs.9,42,000/- basing on the salary certificate, which shows the gross salary of the deceased at Rs.10,824/-, and taking into consideration the carry home salary at Rs.7,049/-, made deduction at $\frac{1}{3}^{\text{rd}}$ there from and applied the multiplier '16'.

6. Sri Kota Subba Rao, learned Standing Counsel for the appellant, would fairly submit that there is no merit in the appeal, in view of the recent pronouncements of the Hon'ble Supreme Court in **Sarla Verma & others v. Delhi Transport Corporation and another**^[1] and **Rajesh and others v. Rajbir Singh and others**^[2]

7. Perused the order under appeal and the evidence on record.

8. The amount granted by the Tribunal was based on the carry home salary drawn by the deceased. In fact, from the gross salary, statutory deductions are to be made, besides the permissible deduction of $\frac{1}{4}^{\text{th}}$, rather than $\frac{1}{3}^{\text{rd}}$ taken by the Tribunal, as dependants are numbering four. In

that view of the matter, the appeal is devoid of merit.

9. The instant appeal is, therefore, dismissed. In case any appeal is preferred by respondent Nos.1 to 4 herein, who are claimants, seeking enhancement, and pending disposal, the same shall be dealt with independently without reference to the observations made herein.

10. Miscellaneous applications, if any, pending in the instant appeal, shall stand closed. There shall be no order as to costs.

A. SHANKAR NARAYANA, J

26th July, 2016
v v

[\[1\]](#) (2009) 6 Supreme Court Cases 121

[\[2\]](#) 2013 ACJ 1403