

HON'BLE SRI JUSTICE G. SHYAM PRASAD

M.A.C.M.A. No. 482 OF 2006

JUDGMENT:

1. This Appeal is arising out of the order, dated 14.10.2005, in O.P. No.1195 of 2003 on the file the Chairman, Motor Accidents Claims Tribunal-cum-V Additional Metropolitan Sessions Judge (Mahila Court)-cum-XIX Additional Chief Judge, Hyderabad (for short, 'the Tribunal').

2. Appellants herein are the petitioners, who are the legal heirs of Mr. Y. Venkata Ramana Rao (Hereinafter referred to as 'the deceased'). 1st appellant is the wife, 2nd and 3rd appellants are the sons, 4th appellant is the daughter and 5th and 6th appellants are the parents of the deceased, filed the petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') claiming compensation of Rs.14,00,000/- on account of death of deceased in a motor vehicle accident.

3. 1st respondent is the driver-cum-owner of the crime Lorry bearing No.AP31V 2139 and 2nd respondent is its insurer.

4. The Tribunal, on consideration of the evidence of PW.1 – wife of deceased and PWs.2 and 3 and the documents Exs.A-1 to A-10 on behalf of the appellants, and Ex.B-1 on behalf of the respondents, granted compensation of Rs.8,00,200/- with proportionate costs and interest at the rate of 9%p.a. from the date of petition till realization.

5. Feeling aggrieved by the quantum of compensation awarded by the Tribunal, the appellants approached this Court seeking enhancement of the compensation.

6. Mr. K. Ravinder Reddi, learned counsel for the appellants is not present and there is no representation on his behalf. Mrs. S.A.V. Patnam, learned counsel for the 2nd respondent-insurance company advanced her arguments. The appeal against 1st respondent herein was dismissed for default *vide* court order dated 22.04.2016.

7. Since no arguments were advanced on behalf of the appellants, their arguments are deemed to have been heard.

8. Learned counsel appearing for the 2nd respondent-insurance company submits that the compensation awarded by the Tribunal is just and reasonable and it does not require any interference by this Court. It is further submitted that the decision of the Apex Court in *Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another*¹, may be considered in this case.

9. The point for consideration in this matter is, whether the compensation awarded by the Tribunal is excessive?

10. POINT: The brief facts of the case are that on 01.12.2002, while the deceased was returning on his motorcycle bearing No.ABG 8125 and when he reached near Susma Theatre Bus Stop, Vanasthalipuram, the crime lorry bearing No.AP31V 2139 came from his rear side, driven in a rash and negligent manner, dashed

¹ AIR 2009 SC 3104

the scooter of the deceased. As a result of which, the deceased fell down, sustained bleeding injuries to his head and he was shifted to Hospital, where he was declared dead. The deceased was aged 45 years and he was working as Account in M/s. K.M.S. Constructions Private Limited and drawing a salary of Rs.9,500/- p.m. as on the date of the accident. The accident occurred due to rash and negligent driving of the driver of the crime Lorry.

11. The appellants herein, who are the legal heirs of deceased, claimed compensation against respondent Nos.1 and 2. There was coverage of insurance under the cover note No.228265, dated 05.08.2002. The appellants claimed compensation of Rs.14,00,000/- with proportionate costs and interest at the rate of 12% p.a. Vanasthalipuram P.S. registered a case in Crime No.604 of 2002.

12. Learned counsel for the 2nd respondent-insurance company submits that proper salary certificate was not filed before the Tribunal. The salary certificate was not proved by any evidence and, therefore, the compensation calculated, basing on the salary certificate, is excessive. It is further submitted that the compensation awarded under other heads is also excessive.

13. On consideration of the evidence on record it is obvious that the dispute is only with regard to quantum of compensation. It is also pertinent to note that the respondents have not adduced any evidence before the Tribunal except marking the insurance policy - Ex.B-1. There is no dispute with regard to violation of the terms and conditions of the insurance policy. The dispute is only with regard to

grant of quantum of compensation. Learned counsel for the 2nd respondent-insurance company fairly conceded to award compensation in the view of the principles laid down by the Apex Court in *Sarla Verma*¹.

14. The main contention of learned counsel for the 2nd respondent-insurance company is that the income of the deceased is not proved by any cogent and consistent evidence. Ex.A-5 is the salary certificate produced before the Tribunal. Ex.A-6 contains vouchers showing the particulars of monthly salary of the deceased from April, 2002 to December, 2002. As per Ex.A-6, the deceased was drawing a salary of Rs.9,500/- p.m. The testimony of PW.2, who was working as Manager in M/s. K.M.S. Constructions Private Limited, reveals that the deceased was working in their Company, which is a private concern. The Tribunal has taken into consideration the monthly salary of the deceased as Rs.7,000/-, for the purpose of calculation of compensation, I do not see any valid ground to interfere with the order of the Tribunal.

15. However, as per the decision of the Apex Court in *Sarla Verma*¹, the relevant multiplier applicable to the age group of the deceased between 41 to 45 is '14'. The monthly income of the deceased, after deducting 1/3rd towards his personal expenses, would be Rs.4,667/- which is rounded off to Rs.4,700/- and as such his annual income would come to Rs.56,400/-. If the same is multiplied with the multiplier 14, the compensation to be awarded under the head of loss of earnings and dependency would come to Rs.7,89,600/-.

16. The following is the tabular form showing the amount of compensation awarded by the Tribunal and enhanced by this Court, if any, under each head:

Sl.No.	Name of Head	Awarded by Tribunal	Awarded by this Court
01.	Loss of dependency and earnings	Rs.7,33,200/-	Rs.7,89,600/-
02.	Consortium to wife	Rs.15,000/-	Rs.20,000/-
03.	Loss of love and affection	Rs.20,000/-	Rs.20,000/-
04.	Loss of estate	Rs.25,000/-	Rs.25,000/-
05.	Transportation	Rs.5,000/-	Rs.5,000/-
06.	Funeral Expenses	Rs.2,000/-	Rs.10,000/-
	TOTAL	Rs.8,00,200/-	Rs.8,69,600/-

17. Accordingly, with the above calculation, the Appeal is allowed in part, enhancing the compensation awarded by the Tribunal from Rs.8,00,200/- to Rs.8,69,600/-. Except this modification, the order of the Tribunal remains unaltered.

18. As a sequel to disposal of the appeal, miscellaneous petitions, if any, pending in this Appeal shall stand closed as infructuous.

G. SHYAM PRASAD, J

Date:14.11.2016.
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