

HON'BLE SRI JUSTICE G.SHYAM PRASAD

MACMA No.267 OF 2006

JUDGMENT:

This appeal is arising out of the common order dated 27.05.2005 passed in three OPs i.e., O.P.No.1153/2003, 1156/2003 and 1157/2003 on the file of Chairperson, Motor Accidents Claims Tribunal-cum-IV Additional District Judge (II FTC), Nalgonda (for short "Tribunal"). The present appeal is arising out of the order passed in O.P.No.1157/2003.

The appellants in this appeal are wife and children of the deceased Jarpula Nazi. They filed OP.No.1157/2003 under Section 166 of the Motor Vehicles Act, 1988 and claimed compensation of Rs.2 lakhs on account of the death of Jarpula Nazi in the motor vehicle accident.

The facts, in brief, are that on 25.05.2003 while the appellants and Jarpula Nazi were traveling in an auto bearing No.AP 24 TR 5366 from Venkatampeta to Vinjamur, the auto being driven by its driver in a rash and negligent manner at high speed and unable to control the steering when they reached the outskirts of Kokkirala Village, as a result of which, the auto turned turtle and the appellants sustained multiple injuries and crush injuries and that Jarpula Nazi died. All the injured were shifted to Dr Srinivasa Rao Hospital at Chinthapally and that the deceased Nazi died while undergoing treatment on the same day. The deceased was hale and healthy and he was earning Rs.3,000/- per month as labourer and used to contribute the same for the welfare and maintenance of his family. They incurred an amount of Rs.10,000/- towards funeral expenses. The Station House Officer,

Chinthapally Police Station, registered a case in Crime No.44 of 2003 under Section 304-A and 337 IPC.

The Tribunal on consideration of oral and documentary evidence, awarded a compensation of Rs.1,65,000/- with proportionate costs and interest @ 7.5% per annum from the date of petition till realization. The appellants, feeling aggrieved by the quantum of compensation, filed the present appeal seeking enhancement of compensation.

The learned counsel Sri P.Kiran advanced arguments in this appeal on behalf of the appellants. On behalf of the respondents, no arguments are advanced in this appeal.

The learned counsel for the appellants submits that the Tribunal has taken the notional income of the deceased as Rs.15,000/- per year, whereas he was earning Rs.3,000/- per month, which comes to Rs.36,000/- per year. He further submits that the Tribunal has wrongly applied multiplier '14' and awarded compensation of Rs.1,65,000/-. He further submits that the income of the deceased has to be taken into consideration as Rs.3,000/- per month which is the minimum wages payable to a worker. The deceased was hale and healthy and was working as a labourer and earning Rs.3,000/- per month.

The point for consideration in this appeal is whether there are sufficient grounds for enhancing the compensation?

POINT: On consideration of the representation of the learned counsel for the appellants and in the light of the decision reported in ***Machineni Rama Devi and others Vs. M. Satyanarayana***

and another¹, wherein the decision of the Hon'ble Supreme Court rendered in case of **Lakshmi Devi and others Vs. Mohd. Tabbar and another**² was referred, the income of a person working in an unorganized sector can be taken into consideration as Rs.3,000/- per month. Therefore, the income of the deceased in this case is taken into consideration as Rs.3,000/- per month, as he was a labourer at the time of accident.

The compensation is calculated keeping in view the rationale in the decision of the Apex Court in **Sarala Varma and others v Delhi Transport Corporation and another**³. As per the said decision, the multiplier applicable to the age between 41 to 45 is '15'. Therefore, the multiplier of '15' can be applied in this case. If the income of the deceased is taken as Rs.3,000/- per month, after deducting 1/3 towards his personal expenses, his monthly income is Rs.2,000/-. The annual income of the deceased is Rs.24,000/- (Rs.2,000/- x 12 months = Rs.24,000/-). If the multiplier '15' is applicable, the compensation comes to Rs.3,60,000/- (24,000/- X 15 = Rs.3,60,000/-). The rest of the claim held by the Tribunal holds goods. Thus, the award of Rs.1,65,000/- awarded by the Tribunal is enhanced to Rs.3,85,000/- (Rs.3,60,000/- + Rs.15,000/- + 10,000/- = Rs.3,85,000/-) and the enhanced amount shall carry interest at 7.5% per annum from the date of petition till realization. The enhanced amount shall be paid to the claimants on payment of deficit Court fee as the claimants paid Court fee claiming an amount of Rs.2,00,000/-.

¹ 2013 (6) ALD 178

² 2008 (3) ALD 129 (SC)

³ 2009(6) SCC 121

Accordingly, the appeal is allowed as indicated above. There shall be no order as to costs.

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

G.SHYAM PRASAD,J

18.11.2016
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