

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

MACMA.No.2038 of 2009

JUDGMENT:

The present appeal is preferred by the claim petitioners in M.V.O.P.No.719 of 2005 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-IV Additional District Judge, Tirupati (for short, 'the Tribunal'), having dissatisfied with the amount of Rs.2,71,500/- granted as compensation by the order and decree, dated 03.05.2007, in the said O.P as against the claim of Rs.4,50,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act'), seeking enhancement of compensation under Section 173 of the Act.

2. The appellants herein are the petitioners, while respondent Nos.1 and 2 herein, who are owner and insure of the offending vehicle, were respondent Nos.1 and 2 in the original petition.

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

4. Since the fact-situation, which lead to the death of one S.Chellaiah, is admitted by both sides, there is no need to advert to the details there of.

5. Heard Sri J.Ugra Narasimha, learned counsel for the appellants – claim petitioners, and Sri Ramachandra Reddy Gadi, learned Standing counsel for respondent No.2 – M/s. National Insurance Company Limited. Though, service was completed on respondent No.1 – owner of the accident vehicle, none appears for him.

6. In order to assess the compensation to which the petitioners are entitled, the Tribunal has taken the age of the deceased as 28 years as per the post mortem certificate, income at Rs.18,000/- per annum fixing the daily wage at Rs.50/- ($50 \times 30 = 1500$; $1500 \times 12 = 18,000$), as the deceased was working as a Mason, and, by deducting $1/3^{\text{rd}}$ there from towards his personal living expenses, arrived at Rs.12,000/- ($18,000 \times 1/3 = 6,000$; $18,000 - 6,000 = 12,000$) towards contribution to the family and, by applying multiplier '18', perhaps based on the multiplier factor provided in the Second Schedule to Section 163-A of the Act, arrived at Rs.2,16,000/- ($12,000 \times 18$) towards loss of dependency. The Tribunal awarded Rs.15,000/- each towards loss of estate and loss of consortium, Rs.10,000/- towards loss of love and affection so far as respondents 2 to 5 are concerned, Rs.500/- towards transport expenses and Rs.15,000/- towards extra-nourishment, medical bills and attendant charges. Thus, a total sum of Rs.2,71,500/- was awarded with interest

at 7.5% per annum apportioning the compensation amongst the claim petitioners.

7. Since the claim is for Rs.4,50,000/-, when kept in view, the profession of the deceased being a Mason, the Tribunal was not right in taking the daily wage at Rs.50/- even in the year 2004. If future prospects are also added by slightly enhancing the daily wage of Rs.50/- earned by a person working as a Mason in the year 2004, certainly, it would be nearer or slightly more than Rs.4,50,000/-. However, since both sides would agree that the claim of Rs.4,50,000/- made by the petitioners in the O.P would be the just and reasonable compensation, the same amount can be granted by enhancing the compensation of Rs.2,71,500/- awarded by the Tribunal.

8. Thus, the petitioners are granted a total compensation of Rs.4,50,000/-, as against Rs.2,71,500/- granted by the Tribunal, while maintaining the rate of interest at 7.5% per annum awarded by the Tribunal on the enhanced amount also from the date of petition till realisation, as the same is in accordance with the rate of interest awarded by the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**¹.

9. Accordingly, the instant appeal is allowed modifying the order passed by the Tribunal, by enhancing the compensation, as

¹ 2013 ACJ 1403

indicated above, and confirming the same in all other respects. The enhanced amount shall be apportioned among the petitioners in the same proportion in which the original compensation amount was directed to be apportioned and disbursed by the Tribunal. There shall be no order as to costs.

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

22.09.2016
v v

JUSTICE A.SHANKAR NARAYANA

