

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.704 of 2009

JUDGMENT :

The instant Civil Miscellaneous Appeal is preferred by respondent No.2 – New India Assurance Company Limited (for brevity “the insurer”), challenging the order and decree dated 25.03.2008, passed in M.V.O.P.No.1067 of 2006 by the Chairman, Motor Accidents Claims Tribunal (District Judge), Khammam (for brevity “the Tribunal”), whereby and whereunder a sum of Rs.2,58,000/- was granted towards compensation, as against the claim of Rs.3,00,000/- laid by respondent Nos.1 and 2 – claim petitioners under Section 166 of the Motor Vehicles Act, 1988 (for brevity “the Act”) for the death of the deceased – Yakkala Naveen, who is their younger son.

2. Appellant and respondent No.3 are the insurer and owner, respectively, of the offending vehicle i.e., Qualis bearing No.AP 20W 117; and respondent Nos.1 and 2 are the claim petitioners in M.V.O.P.No.1067 of 2006. For the sake of convenience, the parties are referred to as they are arrayed in M.V.O.P.No.1067 of 2006 before the Tribunal.

3. Coming to the fact situation, the manner in which the accident had taken place and the death of the deceased – Yakkala Naveen in the said accident are not disputed by the learned Standing Counsel for the appellant – insurer, so also the age of the deceased as 18 years. However, the learned Standing Counsel would submit that, though, the Bus belonging to the A.P. State Road Transport Corporation was also involved in the accident, as

the driver of the bus contributed 50% to the said accident, the Tribunal, somehow, sidelined the said aspect to record a finding thereon. It is his further submission that the Tribunal, instead of applying the multiplier factor '16', ought to have applied the multiplier '11' basing on the age of the mother of the deceased i.e., claim petitioner No.2, but not with reference to the age of the deceased. These are the two main submissions made by the learned Standing Counsel for the appellant – insurer challenging the impugned order and decree.

4. On the other hand, Sri P. Ravi Shankar, learned counsel for the claimant petitioners and Sri G. Vijaya Saradhi, learned counsel for respondent No.3 herein, who is the owner of the offending vehicle, would support the order and decree passed by the Tribunal, awarding a compensation of Rs.2,58,000/- with interest at 7.5% per annum from the date of the petition till the date of its deposit, mainly contending that the claim petitioners lost their son at his prime age and the grief of the claim petitioners cannot be compensated in terms of money and what was awarded by the Tribunal towards compensation was even less than the amount of Rs.3,00,000/- sought by the claim petitioners.

5. Heard Sri K. Kishore Kumar Reddy, learned Standing Counsel for the appellant-insurer, Sri P. Ravi Shankar, learned counsel for respondent Nos.1 and 2 - claim petitioners, and Sri G. Vijaya Saradhi, learned counsel for respondent No.3-owner.

6. Perused the impugned order and the evidence on record, adduced by P.W.1 and R.W.1 and also the documentary evidence under Exs.A-1 to A-6 and Ex.B-1.

7. The finding recorded by the Tribunal on Issue No.1, since

based on appreciation of evidence in proper perspective, the same does not warrant any interference.

8. On Issue No.2, the Tribunal had taken the notional income of the deceased at Rs.15,000/- per annum, basing on the entry in the II-Schedule to Section 163-A of the Act. Taking the notional income at Rs.15,000/- per annum for the death of a minor boy, below the age of 15 years. But, stating that the deceased was aged 18 years, taken the notional income of the deceased at Rs.2,000/- per month and the deceased since died in an unmarried status, taken the multiplier '16', basing on the age of the mother of the deceased, and after deducting $\frac{1}{3}^{\text{rd}}$ of the income of the deceased towards personal expenses, arrived at a sum of Rs.2,56,000/- (Rs.16,000/- x 16 = 2,56,000/-), besides granting a sum of Rs.2,000/- towards funeral expenses, thereby making a total sum of Rs.2,58,000/- towards compensation along with interest at 7.5% per annum.

9. In fact, the age of the mother of the deceased is not the criteria to cull-out the relevant multiplier factor in view of the pronouncements of the Hon'ble Supreme Court in **Sarla Verma & others v. Delhi Transport Corporation and another**^[1], **Amrit Bhanu Shali and others v. National Insurance Co. Ltd. and others**^[2], and **Munna Lal Jain and others v. Vipin Kumar Sharma and others**^[3]. In such an event, the appropriate multiplier factor would be '18'. However, even after deducting 50% of the monthly income towards personal expenses of the deceased, his contribution to the family would workout to Rs.1,000/- per month or Rs.12,000/- per annum, and when the

multiplier '18' is applied, it works out to Rs.2,16,000/- (Rs.12,000/- x 18 = 2,16,000/-). This apart, the deceased was prosecuting 10th Class, which is not in dispute, and died at the prime age and the claim petitioners have lost his assistance and even keeping in view, the conventional sums when awarded, would approximately come to Rs.2,58,000/-. Hence, certainly, the compensation amount of Rs.2,58,000/- awarded by the Tribunal cannot be said to be excessive. Therefore, there are no merits in the instant appeal and the same is liable to be dismissed.

10. Accordingly, the Civil Miscellaneous Appeal is dismissed, thereby confirming the order and decree dated 25.03.2008 passed in M.V.O.P.No.1067 of 2006, in all respects, including interest at 7.5% per annum. No order as to costs.

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

JUSTICE A. SHANKAR NARAYANA

28.07.2016.
Msr

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

[\[2\]](#) 2012(6) SCALE

[\[3\]](#) (2013) 6 SCC 347