HONOURABLE SRI JUSTICE S.RAVI KUMAR

M.A.C.M.A.No.408 OF 2013

Dated 1-6-2016

Between:

Sakhineti Savithri and others.

..Appellants.

And:

A.Prameela Rani and another.

..Respondents.

HONOURABLE SRI JUSTICE S.RAVI KUMAR

M.A.C.M.A.No.408 OF 2013

JUDGMENT:

This appeal is preferred against award dated 24-3-2006 in M.V.O.P.No.1407 of 2003 on the file of IX Additional District and Sessions Judge-cum-Motor Accidents Claims Tribunal, Visakhapatnam.

Appellants herein filed the above referred O.P. claiming compensation of Rs.3,00,000/- for the death of S.Varahala Raju in a motor accident that took place on 30-7-2003. According to appellants, first appellant is wife, appellants 2 and 4 are daughters, 3rd appellant is son and 5th appellant is mother of deceased Varahala Raju; on 30-7-2003, deceased Varahala Raju attended to his work as cleaner on the lorry bearing No.AP16 TT 0455 and due to rash and negligent driving of the driver of the said lorry tanker, the vehicle went out of the road margin and turned turtle, as a result, deceased sustained injuries and succumbed to the injuries. Appellants contended that the deceased was earning Rs.3,500/- per month as salary and that they are entitled for compensation of Rs.3,00,000/-.

Insurance Company resisted the claim on the ground that it is not liable to pay any compensation and the Claims Tribunal on a consideration of oral and documentary evidence granted compensation of Rs.2,04,800/- by taking the salary of the deceased as Rs.2,700/- per month with multiplier 11. Aggrieved by the award of the claims Tribunal, claimants preferred the present appeal.

Heard arguments.

Advocate for appellants submitted that the Claims Tribunal mainly erred in deducting 1/3rd of the income of the deceased towards his personal expenses contrary to the Supreme Court decision in *UPSRTC VS.TRILOK CHANDRA* ([1]). He further submitted that according to the above decision, only 1/4th has to be deducted towards personal expenses as the dependant family members are five in number. He further submitted that Claims Tribunal in stead of taking multiplier '13' took '11' as multiplier and if compensation is calculated by adopting these two, the claim of appellants is reasonable and the award has to be modified accordingly.

Other side advocate has not disputed the submissions of learned appellant counsel.

Now the simple point involved in this appeal is whether the Claims Tribunal is right in deducting 1/3rd towards personal expenses of the deceased and in applying multiplier '11' in calculating compensation.

POINT:

There is no dispute with regard to number of claimants. As already referred above, the total number of claimants are five, i.e.,, wife, two daughters, one son and mother. In *UPSRTC VS.TRILOK CHANDRA,* Honourable

Supreme Court held that where dependant family members are 4 to 6, deduction towards personal and living expenses of the deceased should be $1/4^{th}$ of the income. As rightly pointed out by advocate for appellants, deduction should have been $1/4^{th}$ of the income but not $1/3^{rd}$. So far as income fixed by tribunal, there is no dispute, therefore, out of Rs.2,700/- per month only $1/4^{th}$ is to be deducted towards personal expenses but not $1/3^{rd}$. At the rate of 2,700/- per month yearly income comes to Rs.32,400/-(i.e., Rs.2,700/- x 12) out of which, $1/4^{th}$ has to be deducted towards personal expenses of the deceased it comes to Rs.8,100/-. If it is deducted from Rs.32,400/- the net amount comes to Rs.24,300/-. This has to be taken for the purpose of calculation.

The next contention of the appellants is that Tribunal took multiplier '11' in stead of '13'. Advocate for Insurance company has not disputed this submission. So compensation has to be calculated by taking multiplier '13'. If net income of Rs.24,300/- is multiplied by multiplier 13, it comes to Rs.3,15,900/-. Therefore, claimant has claimed Rs.3,00,000/- and even appellant advocate submitted that award may be modified by granting Rs.3,00,000/- as compensation.

Considering the same, the point is answered in favour of appellants and the award of the tribunal is modified by enhancing the compensation to Rs.3,00,000/- with interest as granted by the tribunal.

This appeal is allowed accordingly. No costs.

As a sequel to the disposal of this appeal, Miscellaneous Petitions, if any, pending, shall stand dismissed.

JUSTICE S.RAVI KUMAR

Dated 1-6-2016.
Dvs.

HONOURABLE SRI JUSTICE S.RAVI KUMAR

-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-

M.A.C.M.A.No.408 OF 2013

Dated 1-6-2016

Dvs

---

[1] (1996) 4 SCC 362