

HON'BLE SRI JUSTICE SANJAY KUMAR

AND

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A. No.3106 OF 2005

JUDGMENT: (Per Hon'ble Dr. Justice Shameem Akther)

1. This Appeal, under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), arises from an order dated 22.07.2005 passed in M.V.O.P. No.393 of 2003 by the Chairman, Motor Accidents Claims Tribunal-cum-II Additional District Judge, Vijayawada, Krishna District (for short, 'the Tribunal').

2. Heard Sri Kota Subba Rao, learned counsel for the appellant-insurer, and Sri Sai Gangadhar Chamarty, learned counsel for the respondents 1 and 2-claimants.

3. By the order under appeal, the Tribunal awarded a compensation of Rs.35,00,000/-, against the respondents 1 to 3 therein, who are the driver, owner and insurer of crime lorry, with interest at the rate of 7.5% p.a. and proportionate costs thereon from the date of petition till realization.

4. Sri Kota Subba Rao, learned counsel for the appellant-insurer, fairly concedes that the only point remains for consideration in this appeal is the application of relevant multiplier and he would point out that the Tribunal applied the multiplier 16, whereas the appropriate multiplier applicable to the age group of deceased *i.e.*, 36 to 40 years is 15, in terms of the law laid down by the Supreme Court in ***Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another***¹.

5. Sri Sai Gangadhar Chamarty, learned counsel for the respondents 1 and 2-claimants, fairly accedes for the said submission.

¹ 2009 (6) SCC 121

6. In view of the facts and circumstances, the relevant multiplier applicable to the deceased (39 years) is 15 but the Tribunal has applied the multiplier 16, which is incorrect. Therefore, to assess the loss of dependency, the multiplier 15 is required to be taken. As per which, the amount of compensation to be awarded under the head of loss of dependency would come to Rs.32,40,000/- (Rs.18,000/- x 12 x 15) instead of Rs.34,56,000/- and rounded off to 34,70,000/-. In addition to this, the Tribunal has awarded an amount of Rs.30,000/- towards loss of consortium to the 1st petitioner and loss of estate to the petitioners, which needs no interference by this Court. In all, the respondents 1 and 2, being wife and daughter, and respondents 5 and 6, being aged parents of the deceased, are entitled for a compensation of Rs.32,70,000/- instead of Rs.35,00,000/-, as awarded by the Tribunal.

7. Accordingly, with the above modification, the Appeal is allowed in part, reducing the compensation awarded by the Tribunal from Rs.35,00,000/- to Rs.32,70,000/-. Out of which, respondents 1, 2, 5 and 6, are entitled to their respective share of compensation as per the apportionment made by the Tribunal. The other conditions imposed by the Tribunal remain un-changed.

8. As a sequel, pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

SANJAY KUMAR, J

Dr. SHAMEEM AKTHER, J

Date: 10.08.2017.
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(Judgment of the Division Bench
Delivered by
Hon'ble Dr. Justice Shameem Akther)

Date. 10.08.2017

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