

THE HON'BLE SMT. JUSTICE ANIS

M.A.C.M.A. No. 119 OF 2008

JUDGMENT:

This appeal is filed by the appellants/petitioners under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act'), aggrieved by the order dated 16.03.2007 passed by the Chairman, Motor Accident Claims Tribunal-cum-District Judge, West Godavari at Eluru (for short, 'the Tribunal'), in O.P.No.1160 of 2006, awarding compensation of Rs.8,69,942/-.

2. The claimants filed the above O.P. under Section 166 of the Act, claiming compensation of Rs.24,00,000/- on account of the death of Kandukuri Satyanarayana @ Babu (hereinafter referred to as 'the deceased') in a motor vehicle accident.

3. Before the Tribunal, the appellants herein, who are the wife and children of the deceased, are the petitioners and respondent Nos.1 to 3 herein, who are the driver, owner and insurer of the accident vehicle, are respondent Nos.1 to 3, in the original petition.

4. For the sake of convenience, the parties are referred to as arrayed in the O.P. before the Tribunal.

5. The brief averments made in the petition are as follows:

The petitioners stated that on 06.01.2006 at about 9-30 p.m., the deceased was travelling on a scooter bearing

registration No.AP 37B 9232 and when he was going on Nidadavole to Yarnagudem road, an auto-rickshaw bearing registration No.AP 37V 1201, driven by its driver in a rash and negligent manner, came and dashed the scooter. Due to which, the deceased fell down and sustained grievous injuries and died on 08.01.2006 while undergoing treatment.

According to the petitioners, the deceased was aged 54 years at the time of the accident, working as District Leprosy Officer in District Leprosy Office at Eluru and drawing monthly salary of Rs.24,645/- at the time of his death. Petitioner No.1 is the wife and petitioner Nos.2 and 3 are the children of the deceased and they all are dependents on the earnings of the deceased.

Petitioners stated that respondent No.1 is the driver, respondent No.2 is the owner and respondent No.3 is the insurer of the accident vehicle and they all are jointly and severally liable to pay the compensation to the petitioners.

6. Respondent Nos.1 and 2, who are driver and owner of the accident vehicle, remained *ex parte* before the Tribunal.

7. The brief averments made in the written statement filed by respondent No.3 before the Tribunal are as follows:

Respondent No.3 put the petitioners to prove the manner of accident, age and income of the deceased. It is specifically stated in the written statement that the compensation claimed by the petitioners is high and

excessive. Further, the petitioners are not the dependents on the earnings of the deceased and finally, prayed the Court to dismiss the petition.

8. Basing on the pleadings, the Tribunal framed three issues and to substantiate the claim of the petitioners, P.Ws.1 to 3 were examined and Exs.A.1 to A.16 were marked. On behalf of respondent No.3, no oral or documentary evidence was adduced.

9. The Tribunal, after considering the oral and documentary evidence, held that the accident occurred due to rash and negligent driving of the driver of auto-rickshaw bearing registration No.AP 37V 1201 and awarded compensation of Rs.8,69,942/- along with interest at 7.5% per annum.

10. Not satisfied with the award passed by the Tribunal, the appellants/petitioners preferred the present appeal.

11. The learned counsel for the appellants/petitioners argued that the Tribunal has not considered the relevant multiplier for the age group of the deceased as per the decision of the Hon'ble Supreme Court in **Sarla Verma & others v. Delhi Transport Corporation and another**¹ and prayed the Court to enhance the compensation.

¹ (2009) 6 SCC 121

12. On the other hand, the learned counsel for respondent No.3-Insurance Company argued that the Tribunal has rightly taken the relevant multiplier and Ex.A.13-Form-16 clearly shows that the deceased was drawing Rs.1,92,242/- per annum, but not Rs.2,40,000/- as claimed under the salary certificate and finally, prayed the Court to dismiss the appeal.

13. Having regard to the submissions made by both the learned counsel, the points that arise for consideration are:

1. Whether the appellants/petitioners are entitled for enhancement of compensation?
2. Whether the compensation awarded by the Tribunal is just and reasonable?

14. **Points:**

A perusal of the income tax returns in Ex.A.13-Form-16, the deceased mentioned his annual income as Rs.1,92,242/-. When 1/3rd is deducted therefrom towards personal living expenses of the deceased, the contribution of the deceased to the family comes to Rs.1,28,162/-. Admittedly, the age of the deceased was 54 years at the time of the accident. In view of the decision of the Hon'ble Supreme Court in **Sarla Verma's** case (supra 1), relevant multiplier for the age group of the deceased is '11'. Therefore, when the said multiplier is applied, the loss of future income of the deceased comes to Rs.14,09,782/- (Rs.1,28,162/- x 11)

and the petitioners are entitled to the said amount towards loss of future income of the deceased.

15. The Tribunal, after considering the evidence on record, rightly awarded the amounts of Rs.15,000/- towards loss of consortium, Rs.20,000/- towards loss of love and affection, pain and suffering, Rs.2,000/- towards funeral expenses and Rs.2,000/- towards transportation of dead body and the said amounts are maintained. Therefore, the petitioners are entitled for a total sum of Rs.14,48,782/- towards compensation.

16. Therefore, in view of the above discussion, the compensation awarded by the Tribunal is enhanced from Rs.8,69,942/- to Rs.14,48,782/- and on the enhanced amount of Rs.5,78,840/-, interest @ 7.5% per annum is awarded from the date of appeal till the date of realisation.

17. Accordingly, the appeal is partly allowed. No order as to costs. Miscellaneous Petitions, if any pending in this appeal, shall stand closed.

ANIS, J

Date: 02.01.2017

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