

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL MISCELLANEOUS APPEAL No.4637 OF 2004

JUDGMENT:

The present appeal is preferred by the appellant - claimant, who is the wife of deceased - Venkata Ratnam, on the ground that inadequate compensation was awarded by the learned Chairman, Motor Accidents Claims Tribunal - cum - V Additional District Judge, Vijayawada (for short 'the Tribunal'), requesting for enhancement of compensation. In fact, the claim was laid for Rs.5,00,000/-. The Tribunal, by its order, dated 15.09.2004, awarded a sum of Rs.2,27,200/- with interest at 9% per annum in M.V.O.P. No.472 of 2000 against respondent Nos.1 and 2 and dismissing it against respondent Nos.3 to 7.

2. The appellant herein is the petitioner in the aforesaid MVOP, while respondent Nos.1 and 2, who are owner and insurer of lorry bearing registration No.TMV 2021 are respondent Nos.1 and 2 respectively. Respondent Nos.3 and 4 in the aforesaid MVOP who are owner and insurer of Ambassador bearing registration No.AP 16T 2105, respondent No.5 - Nagarjuna Hospitals and respondent Nos.6 and 7, who are parents of the deceased, are shown as not necessary parties to the present appeal.

3. For the sake of convenience, the parties are hereinafter referred to as they were arrayed in the M.V.O.P. before the Tribunal.

4. On perusal of the order of the Tribunal, it shows that the Tribunal has taken the age of the deceased as 41 years mentioned in the charge sheet; income at Rs.2,000/- per month or Rs.24,000/- per annum; deducted 1/3rd towards personal expenses and arrived at Rs.16,000/- per annum as the contribution of the deceased towards his family and applying the multiplier 12.322 as per the decision in **Bhagawan Das v. Mohd. Arif**¹, arrived at Rs.1,97,152/- towards loss of dependency, and granted Rs.15,000/- towards loss of consortium and Rs.15,000/- towards loss of estate and, thus, a total amount of Rs.2,27,152/- was awarded as compensation.

5. Heard Sri V. Padmanabha Rao, learned counsel for the appellant - petitioner and Sri V. Srinivasa Rao, learned counsel for respondent No.2 - Insurer.

6. So far as the income of the deceased is concerned, since there is no proof on record, the Tribunal has taken the annual income of the deceased as Rs.16,000/- per annum and, therefore, the same cannot be faulted. In so far as the multiplier is concerned, the Tribunal has taken the age of the deceased as 41 years and applied the multiplier factor as 12.322, which is not correct. The relevant multiplier factor is '15' taking the age of the deceased as 38 years as shown in case-sheet - Ex.A-6, and when worked out, the dependency would come to Rs.2,40,000/- [Rs.16,000 x 15]. This apart, the conventional sums awarded by the Tribunal are enhanced to

¹. 1987 ACJ 1052

Rs.50,000/- as against Rs.15,000/- towards loss of consortium and Rs.15,000/- towards loss of estate, as the accident had taken place in the month of March, 1998 and, thus, the petitioner is entitled to Rs.2,90,000/- as against Rs.2,27,200/- awarded by the Tribunal.

7. Concerning the rate of interest, the Tribunal has granted the same at 9% per annum, the same is not disturbed on the amount awarded by the Tribunal. However, on the enhanced amount of Rs.62,800/-, interest is granted at the rate of 7.5% per annum from the date of petition in view of the decision of the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**².

8. In the result, the appeal is allowed in part, and the order and decree, dated 15.09.2004, in M.V.O.P. No.472 of 2000, passed by the Tribunal, are modified, enhancing the compensation to Rs.2,90,000/- from Rs.2,27,200/- with interest at the rate of 9% per annum on the amount of Rs.2,27,200/- granted by the Tribunal and at the rate of 7.5% per annum on the enhanced amount of Rs.62,800/- from the date of petition till realization. There shall be no order as to costs.

As a sequel thereto, miscellaneous applications, if any, pending in the appeal, stand disposed of.

A. SHANKAR NARAYANA, J

July 31, 2017.
Mgr

². 2013 ACJ 1403