

HON'BLE SRI JUSTICE G.SHYAM PRASAD

MACMA No.872 OF 2010

JUDGMENT:

This appeal is arising out of the order dated 18.11.2009 in M.V.O.P.No.607 of 2008 on the file of Chairman, Motor Accidents Claims Tribunal-cum-I Additional District Judge, Guntur, (for short "Tribunal").

2. The appellants herein are the claimants in the above original petition. They filed claim petition under Section 163-A of the Motor Vehicles Act claiming compensation of Rs.10,00,000/- on account of death of deceased Sinivas Rao, in a motor vehicle accident.

3. The brief facts of the case are that on 02.04.2008 at about 8.30 a.m. while the deceased was going on his cycle from Chirala Mutavari centre to his college and when he reached near Si Sai Ganesh Spinning Mill, a lorry bearing No. AP-16-TW-4323 came in a rash and negligent manner and dashed against the deceased, as a result of which, he received multiple injuries and died on the spot. The Police, Vetapalem registered a case in Cr.No.55 of 2008 against the driver of the lorry. The deceased was studying M.B.A. First Year by the date of the accident and he was 22 years old. The appellants claimed compensation of Rs.10 lakhs. 1st respondent being the owner and the 2nd respondent being the insurer, are jointly and severally liable to pay the compensation.

4. First respondent, owner of the lorry remained exparte before the tribunal.

5. 2nd respondent-Insurance Company filed counter dying the liability and also contended that the claim is excessive.

6. The Tribunal on consideration of the evidence, awarded compensation of Rs.2,62,000/- as against the claim of Rs.10 lakhs. Being aggrieved by the impugned award, this appeal has been preferred.

7. Heard arguments of learned counsel for the appellants. None appeared on behalf of the respondents, though notices have been served to them. Hence, the arguments on behalf of the respondents deemed to have heard.

8. The point for consideration in this matter is whether the appellants are entitled for enhancement of compensation?

9. Learned counsel for the appellants submitted that the deceased was 22 years old by the date of the accident and was studying MBA and he has good prospects in life. The Tribunal has taken his income as Rs.30,000/- per annum which is not even the minimum wages of a daily wage worker and adequate income of the deceased may be taken for the purpose of calculating the compensation.

10. As far as the income of the deceased is concerned, the Tribunal has taken as Rs.30,000/- per annum. No doubt, the deceased was studying MBA by the date of the accident. If he had completed his MBA, he may get a good job and earn even more income than the income taken by the Tribunal. However, keeping in view the facts and circumstances of the case, the Tribunal has taken the income of the deceased as Rs.30,000/- per annum and deducted 1/3rd of it towards personal expenses, basing on that calculated the compensation and arrived at Rs.2,62,000/-. In fact, if the notional income of the deceased is taken into consideration at Rs.6,000/- per month, 50% has to be deducted and there may not be much benefit to the claimants. Therefore, I am not inclined to increase the income of the deceased and calculate the compensation

basing on that as the calculation made by the Tribunal is more beneficiary to the claimants.

11. It is submitted that the Tribunal awarded funeral expenses at Rs.2,000/-. This amount is required to be enhanced as the amount is very meagre. The Tribunal has not awarded any amount towards loss of love and affection.

12. Learned counsel for the appellants, by placing reliance of para 39 of the decision of the Apex Court in *Kishan Gopal v. Lala*¹, submitted that the Tribunal awarded inadequate compensation and sought for enhancement of the same. Para 39 of the said decision reads as under:

“39. In view of the aforesaid reasons, it would be just and reasonable for us to take his notional income at Rs.30,000/- and further taking the young age of the parents, namely the mother who was about 36 years old, at the time of accident, by applying the legal principles laid down in the case of Sarla Verma v. Delhi Transport Corporation {(2009) 6 SCC 121}, the multiplier of 15 can be applied to the multiplicand. Thus, 30,000 x 15 = 4,50,000 and 50,000/- under conventional heads towards loss of love and affection, funeral expenses, last rites as held in Kerala SRTC v. Susamma Thomas {(1994) 2 SCC 176, which is referred to in Lata Wadhwa case {(2001) 8 SCC 197} and the said amount under the conventional heads is awarded even in relation to the death of children between 10 to 15 years old. In this case also we award Rs.50,000/- under conventional heads. In our view, for the aforesaid reasons the said amount would be fair, just and reasonable compensation to be awarded in favour of the appellants.”

¹ (2014) 1 SCC 244

13. In view of the decision of the Apex Court reported in Kishan Gopal case supra, under conventional heads towards loss of love and affection and funeral expenses, an amount of Rs.50,000/- is awarded.

14. The Tribunal has also not awarded any amount towards loss of estate. Therefore, an amount of Rs.20,000/- is awarded towards loss of estate.

15. The learned counsel for the appellants submitted that the Tribunal has not awarded any amount towards future prospects of the deceased. Therefore, an amount of Rs.50,000/- is awarded towards future prospects of the deceased.

16. The compensation awarded is shown in the following tabular form:

S.No.	Name of Head	Compensation awarded by the Tribunal	Compensation Awarded by this Court
1.	Loss of dependency	Rs.2,60,000/-	Rs.2,60,000/-
2.	Under conventional heads towards loss of love and affection and funeral expenses	Rs.2,000/- towards funeral expenses only	Rs .50,000/-
3	Future prospects	---	Rs. 50,000/-
4.	Loss of estate	---	Rs. 20,000/-
	Total	Rs.2,62,000/-	Rs.3,80,000/-

17. On consideration of the evidence on record, the compensation awarded by the Tribunal at Rs.2,62,000/- is enhanced to Rs.3,80,000/-.

18. In the result, the appeal is partly allowed and the compensation awarded by the Tribunal at Rs.2,62,000/- is enhanced to Rs.3,80,000/- (Rupees three lakhs eighty thousand only) with interest at 7.5% per annum

from the date of the petition till realization, with proportionate costs. The respondents are directed to deposit the said compensation amount within two months from the date of the receipt of the copy of this order. On such deposit, the appellants are permitted to withdraw the said compensation amount as fixed by the Tribunal.

As a sequel, miscellaneous petitions, if any, pending in the appeal shall stand closed.

Date: 16.02.2017
ccm

G.SHYAM PRASAD, J



HON'BLE SRI JUSTICE G.SHYAM PRASAD



MACMA No.872 OF 2010

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