HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

M.A.C.M.A. No. 261 of 2014

JUDGMENT:

This appeal is arising out of the Order and Decree passed in O.P.No.701 of 2008 on the file of Motor Accidents Claims Tribunal, Anantapur.

2. Brief facts of the case are that the appellants filed a claim petition under Section 163-A of the Motor Vehicles Act, 1988, claiming compensation of Rs.5,00,000/- on account of the death of the deceased in a motor vehicle accident that occurred on 14.05.2008, at about 3:45 AM when the deceased was travelling in a Tata Sumo vehicle bearing No.AP-02-TV-0090 and the driver of the vehicle drove it in a rash and negligent manner and dashed against a road-roller that was stationed on the left side of the road. The Tribunal, on consideration of the evidence, awarded compensation of Rs.3,56,000/- with interest at 7.5% per annum against respondents 1 and 2, the owner and the insurer of the crime vehicle Tata Sumo. Aggrieved by the quantum of compensation, the appellants, who are the legal heirs of the deceased, filed this appeal for enhancement of compensation.

3. Heard the arguments of learned counsel for the appellants, and respondents.

4. The point that arise for consideration is whether the appellants are entitled for enhancement of compensation.

5. Learned counsel for the appellants argued that the Tribunal has not followed the ratio laid down in the decision rendered in **Sarla Verma v. Delhi Transport Corporation**[1]. It is argued that the Tribunal has deducted 1/3rd amount of the income of the deceased towards his personal expenditure, whereas when the dependents on the deceased are four in number, only 1/4th of income has to be deducted towards personal expenditure of the deceased.

6. Learned counsel for the respondents submitted that the Tribunal has awarded compensation adequately and the same does not require any interference.

7. As far as the contention regarding deduction towards personal expenses is concerned, in paragraph 14 of **Sarla Verma**, it was held as under:

> ***"Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in Trilok Chandra, the general practice is to apply standardized deductions. Having considered several subsequent decisions of this court, we are of the view that where the deceased was married, the deduction towards personal and living expenses of the deceased, should be one-third (1/3rd) where the number of dependent family members***

[1] (2009) 6 SCC 121

> ***is 2 to 3, one-fourth (1/4th) where the number of dependant family members is 4 to 6, and one-fifth (1/5th) where the number of dependant family members exceed six.”***

8. In the instant case, the legal representatives of the deceased are four in number and, therefore, an amount of 1/4th has to be deduced from the income of the deceased towards his personal expenditure as per **Sarla Verma**. The Tribunal has taken the income of the deceased at Rs.3,000/- per month which is just and reasonable in the facts and circumstances of the case. Deducting 1/4th towards his personal expenditure, his contribution towards his family would come to Rs.2,250/- per month. The deceased was 45 years old by the date of the accident and, therefore, the appropriate multiplier would be ‘14’. Therefore, the loss of dependency on account of the death of the deceased would come to Rs.2,250 x 12 x 14 = Rs.3,78,000/-. The Tribunal awarded Rs.10,000/- towards loss of consortium to the wife; Rs.5,000/- towards funeral expenses and Rs.5,000/- towards loss of estate. In the light of the decision of the Hon’ble Supreme Court in **Ramilaben Chinubhai Parmar v. National Insurance Co.[2],** the compensation under the above three heads is enhanced to Rs.50,000/-. Therefore, the total compensation awarded to the appellants-claimants would come to Rs.3,78,000/- + Rs.50,000/- = Rs.4,28,000/-.

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[2] MANU/SC/0356/2014

9. In the result, the appeal is partly allowed by awarding compensation of Rs.4,28,000/- with proportionate costs and interest at 7.5% per annum from the date of petition till realisation. Miscellaneous petitions, if any pending, shall stand closed.

GUDISEVA SHYAM PRASAD, J

30th October, 2017

KSM

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

M.A.C.M.A. No. 261 of 2014

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