

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

M.A.C.M.A. No.240 of 2006

JUDGMENT :

This Civil Miscellaneous Appeal, under Section 173 of the Motor Vehicles Act, 1988 (for brevity "the Act"), is preferred by the appellants/petitioners seeking enhancement of compensation challenging the order and decree dated 16.06.2005 in M.V.O.P.No.249 of 2001 passed by the Motor Vehicles Accidents Claims Tribunal-cum-II Additional District Judge, Guntur (for brevity "the Tribunal"), awarding compensation of Rs.1,63,600/- with interest at 9% per annum as against the claim of Rs.2,50,000/- laid by them under Sections 166 and 163 of the Act, for the death of the deceased – Karampudi Santaiah, s/o. Kanakambaram, in a motor accident that occurred on 18.12.2000.

2. The brief facts of the case are that the appellants are the claimants, who filed M.V.O.P.No.249 of 2001 claiming compensation of Rs.2,50,000/- for the death of the deceased – Karampudi Santaiah, s/o. Kanakambaram, in a motor accident that occurred on 18.12.2000 at 9.30 a.m., near Nallapadu Kaluva, Nallapadu Mandal, Guntur District, when the deceased was attending to road work at Nallapadu Kaluva, as the driver of the lorry bearing No.AIC 3305 coming from Guntur side in a rash and negligent manner and in high

speed dashed against him, causing severe injuries to him and he was admitted in CGH, Guntur and later shifted to private Nursing Home for better treatment and while he was shifting to a Private Nursing Home, he succumbed to injuries. The S.H.O., Guntur Taluk P.S. registered a case in Crime No.311 of 2000 for the offence punishable under Section 304-A IPC against the driver of the offending lorry. The petitioners, who are the legal representatives of the deceased, filed the aforesaid M.V.O.P.No.249 of 2001 against the owner and insurer of the offending lorry claiming compensation of Rs.2,50,000/-.

3. On contest, vide order and decree dated 16.06.2005, the Tribunal awarded a compensation of Rs.1,63,600/- with proportionate costs and interest @ 9% per annum from the date of petition till realization, while holding both the respondents jointly and severally liable to pay compensation. Having dissatisfied with the said compensation, the petitioners have filed the present Civil Miscellaneous Appeal seeking enhancement of compensation.

4. Heard Sri A. Rajendra Babu, learned counsel for the appellants-petitioners, as well as Smt. M. Bhaskara Lakshmi, learned Standing Counsel for respondent No.2 – National Insurance Company Limited. Perused the order under challenge and also the evidence on record.

5. The only point that arises for consideration in this appeal is, whether the Tribunal has taken the income of the deceased in correct perspective for awarding the amount of compensation?

6. Learned counsel for the appellants disputes with regard to the income taken by the Tribunal at Rs.40/- per day as daily wage of the deceased in the year 2001, as very low and meager. In the light of the catena of decisions rendered by the Apex Court in **Ramesh Singh v. Satbir Singh¹, New India Assurance Company Ltd. v. Smt. Shanti Pathak², Oriental Insurance Co. Ltd. v. Syed Ibrahim³, New India Assurance Co. Ltd., v. Kalpana (Smt)⁴**, a minimum of Rs.2,500/- per month can be taken as the monthly income of a person working in an unorganized Sector.

7. In the instant case, the age of the deceased was taken as 21 years at the time of accident and the appropriate multiplier applicable for such age group is '16'. If the income of the deceased is taken as Rs.2,000/- per month, after deducting 1/3rd from it towards his personal expenses, his contribution to the family can be taken as Rs.1,334/- per month. If the same is taken per annum and multiplied by the

¹ MANU/SC/7089/2008

² MANU/SC/7776/2007

³ MANU/SC/7915/2007

⁴ (2007) 3 SCC 538

appropriate multiplier '16', it comes to Rs.2,56,128/- (Rs.1,334/- x 12 x 16).

8. It is further submitted by the learned counsel for the appellants-petitioners that the quantum of consortium awarded by the Tribunal at Rs.10,000/- to the appellant/petitioner No.1 is very low and hence the same may be enhanced.

9. On consideration of the representation of the learned counsel for the appellants-petitioners, the amount of consortium is enhanced from Rs.10,000/- to Rs.25,000/-. Thus, the compensation awarded by the Tribunal is enhanced to Rs.2,71,128/- (Rs.2,56,128/- + Rs.15,000/-), which can be rounded off to Rs.2,71,000/-.

10. In the result, the Civil Miscellaneous Appeal is allowed in part, enhancing the amount of compensation from Rs.1,63,600/- to Rs.2,71,000/- (Rupees two lakhs seventy one thousand only) with proportionate costs and the enhanced amount shall carry interest @ 7.5% per annum from the date of petition till the date of realization. The rate of interest at 9% per annum awarded by the Tribunal on Rs.1,63,600/- shall remain unaltered. The respondents are directed to deposit the entire compensation amount within two months from the date of receipt of a copy of this judgment. On such deposit, the appellants-petitioners are

permitted to withdraw the entire amount of compensation in the same ratio as was apportioned by the Tribunal. The appellants-petitioners shall pay Court Fee on the amount now awarded over and above their claim of Rs.2,50,000/-. No order as to costs.

11. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE G. SHYAM PRASAD

04.10.2017.
Msr



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