

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

M.A.C.M.A. No. 1112 of 2006

JUDGMENT:

This appeal is arising out of the Order and Decree dated 22.12.2005 passed in O.P.No.2171 of 2004 by the II Additional Chief Judge, City Civil Court, at Hyderabad. The appellant is the United India Insurance Company Limited, and the respondents are the claimants.

2. Brief facts of the case are that the claimants filed a claim petition under Section 166 of the Motor Vehicles Act, 1988, claiming compensation of Rs.3,00,000/- on account of the death of Maisaiah in a motor vehicle accident that occurred on 13.06.2004 at 7:30 a.m., while he was proceeding on foot towards tea stall, being hit by a TVS Fiero motor cycle bearing No.AP 28AG 1016. The police registered a case in Crime No.115 of 2004 for the offence under Section 304-A IPC against the rider of the motor cycle. The legal heirs of the deceased claimed compensation of Rs.3,00,000/- against the respondents, the owner and the insurer of the crime vehicle. The 1st respondent remained ex parte and the 2nd respondent filed counter denying its liability. The Tribunal, on consideration of the evidence, awarded compensation of Rs.2,88,000/- with interest at 9% per annum

from the date of petition till realisation. Aggrieved by the quantum of compensation, the appellant-insurance company filed this appeal.

3. Heard the arguments of the learned counsel for the appellant-insurance company. No representation on behalf of the respondents-claimants.

4. Learned counsel for the appellant submitted that the deceased was 49½ years old by the date of accident, but his age was taken as 45 years and multiplier '15' was applied whereas the multiplier applicable to the age of the deceased is '13' as per **Sarla Verma v. Delhi Transport Corporation**¹, and, therefore, the compensation awarded by the Tribunal is excessive. Learned counsel has also submitted that the rate of interest awarded by the Tribunal is 9% per annum which is on higher side and sought for reducing the same to 7.5% per annum.

5. Having regard to the facts and circumstances of the case, since none appeared on behalf of the respondents, and since the accident involved is of the year 2004, and the claimants could not get the benefit of the Award, this appeal is taken up for disposal on merits.

¹ (2009) 6 SCC 121

6. On perusal of the material available on record and in the light of the facts and circumstances of the case, this Court is of the view that the quantum of compensation awarded by the Tribunal is just and adequate and the same does not require any interference, except for the rate of interest of 9% per annum which requires to be reduced to 7.5% per annum from the date of petition till realization in view of the decision of the Hon'ble Supreme Court in **Dharampal and others Vs. U.P. State Road Transport Corporation**².

7. **IN THE RESULT**, the appeal is partly allowed by reducing the rate of interest from 9% per annum to 7.5% per annum from the date of petition till realisation. Rest of the Award passed by the Tribunal shall be intact. No costs. Miscellaneous petitions, if any pending, shall stand closed.

GUDISEVA SHYAM PRASAD, J

25th October, 2017

KSM

² MANU/SC/7680/2008

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD



M.A.C.M.A. No. 1112 of 2006

25th October, 2017

KSM