THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A. No. 2065 OF 2005

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), by the appellants-petitioners in O.P. No.459 of 1994 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-I Additional District Judge, Nalgonda (for short, 'the Tribunal'), having got dissatisfied with the award of compensation of Rs.3,51,000/- with interest at the rate of 12% per annum from the date of petition till realisation, granted by the Tribunal, *vide* the order dated 27.01.1999, as against the claim of Rs.10,00,000/- laid under Section 166 of the Act for the death Satyanarayana in a motor accident occurred on 07.06.1994. The deceased-Satyanarayana was the husband of appellant No.1, father of appellant Nos.2 and 3 and son of appellant Nos.4 and 5.

2. Heard both the learned counsel for the appellants-petitioners and the learned Standing Counsel for respondent No.2-insurer, apart from perusing the material available on record. The appeal against respondent No.1-owner of the crime vehicle is dismissed on 13.04.2016 for default. However, dismissal of the appeal for default against respondent No.1-owner of the vehicle is of no consequence to decide the quantum of compensation, in view of the decision of a Division Bench of this Court in **Meka Chakra Rao v. Yelubandi Babu Rao @ Reddemma and others**[1].

3. Learned counsel for the appellants would contend that the deceased was 37 years old, working as a Supervisor in a poultry farm and earning more than Rs.10,000/- per month; the Tribunal had erroneously

[1] 2001(1) ALT 495 (D.B.)

taken the earnings of the deceased as Rs.3,000/-, deducted 1/3rd therefrom towards personal expenses of the deceased, applied multiplier '14' and granted an amount of Rs.3,36,000/- towards loss of dependency, Rs.7,500/- towards loss of estate and another sum of Rs.7,500/- towards loss of consortium, in all, granted Rs.3,51,000/-, which is meagre; in view of the evidence on record, the appellants are entitled for a compensation as claimed.

4. On the other hand, learned Standing Counsel for respondent No.2-insurer would submit that the Tribunal had calculated the compensation on all heads and rightly granted Rs.3,36,000/- towards loss of dependency and Rs.15,000/- on different heads, which is just and reasonable; there are no circumstances to enhance the compensation; and ultimately, prayed to dismiss the appeal.

5. There is no much dispute with regard to the rashness and negligence on the part of the driver of the lorry bearing No.AHK 1718 in causing accident and death of the deceased. There is oral and documentary evidence to substantiate the same. There is nothing to take a different view. This finding is based on record, which is liable to be confirmed.

6. The only point for determination is, whether the appellants are entitled for enhancement of compensation as claimed?

7. There is evidence on record to establish that the deceased was 37 years old and was working as a P.A. in Srinivasa Hatcheries and also getting income from Shri Laxmi Narasimha Poultry Farm and earning more than Rs.10,000/- per month. The appellants have filed Ex.A.9-school certificate of the deceased and Ex.A.10-letter forwarded to the bank for

obtaining loan. Though the appellants contended that the deceased was a graduate, no such certificate was filed to substantiate the same. The appellants have not filed salary certificate of the deceased. There is no legally acceptable evidence to believe that the deceased was earning more than Rs.10,000/- per month. Taking into all the facts into consideration, the Tribunal had taken monthly earnings of the deceased as Rs.3,000/-, deducted 1/3rd therefrom towards personal expenses of the deceased, applied multiplier '14' and determined compensation towards loss of dependency. Under these circumstances, the income of the deceased can be taken as Rs.3,000/- per month or 36,000/- per annum. Out of the same, since the dependents are five in number, as per the decision of the Hon'ble Supreme Court in **Sarla Verma & others v. Delhi Transport Corporation and another**[2], 1/4th of the income of the deceased has to be deducted towards personal living expenses, which comes to Rs.9,000/- and when the same is deducted, the contribution of the deceased to the family comes to Rs.27,000/-. In view of **Sarla Verma's** case (2 supra), relevant multiplier applicable for the age of the deceased is '15'. When the same is applied, the loss of dependency comes to Rs.4,05,000/-. The Tribunal granted a sum of Rs.7,500/- towards loss of estate and another sum of Rs.7,500/- towards loss of consortium, which are meagre. Therefore, an amount of Rs.40,000/- is granted towards loss of estate and another sum of Rs.40,000/- is also granted towards loss of consortium. Thus, in all, the appellants are entitled to a total sum of Rs.4,85,000/- as against Rs.3,51,000/- granted by the Tribunal. Appellant No.1 being the wife of the deceased is entitled to the enhanced compensation of Rs.1,34,000/- and interest thereon.

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[2] (2009) 6 SCC 121

8. So far as the rate of interest is concerned, the Tribunal granted rate of interest at 12% per annum on the amount granted by the Tribunal. Appellant No.1 is entitled to the rate of interest at 7.5% per annum on the enhanced compensation amount from the date of petition till date of realization in view of the decision of the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**[3].

9. In the result, this appeal is allowed in part, modifying the order dated 27.01.1999 passed by the Tribunal in O.P. No.459 of 1994 and the amount of Rs.3,51,000/- granted by the Tribunal is enhanced to Rs.4,85,000/-. On deposit of the enhanced compensation, appellant No.1-wife of the deceased is permitted to withdraw the enhanced compensation of Rs.1,34,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of realisation. The other terms of the order under challenge remained unchanged. There shall be no order as to costs.

10. Miscellaneous Petitions pending, if any, shall stand closed.

Dr. SHAMEEM AKTHER, J

Date: 23.10.2017
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[3] 2013 ACJ 1403