HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A.No.241 OF 2014

JUDGMENT:

The present appeal, under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), is preferred on the ground that the amount of Rs.2,33,500/- awarded by the learned Chairman, Motor Accidents Claims Tribunal – cum – VI Additional District Judge, Guntur, by his order and decree, dated 14.09.2011, in M.V.O.P.No.872 of 2010 was meager and not in accordance with the just and adequate compensation, as laid down by the provisions of the Act.

2. The appellants – claimants laid the claim under Section 163-A of the Act for award of Rs.4,50,000/- as compensation for the death of one Chittineni Vijaya Bhaskar, who is the husband of appellant No.1 and son of appellant Nos.2 and 3, in a road accident.

3. Heard Sri N. Subba Rao, learned counsel for the appellants, and Sri P. Bhaskar, learned counsel for respondent No.2 – insurance company.

4. Respondent No.1, who is the owner of the lorry, though, served with notice, has not entered appearance. It appears, he remained *ex parte* before the Tribunal and suffered decree.

5. There is no dispute between the parties in regard to the fact situation occurring in the instant case. The learned Tribunal, having framed three issues, examined PWs.1 and 2 and marked Exs.A1 to A5

on behalf of the appellants and on behalf of respondent No.2, no witnesses were examined and no documents were marked.

6. On issue No.1, the Tribunal found it in favour of the appellants and recorded a finding that due to the rash and negligent driving of the driver of the lorry, the accident occurred resulting in death of the deceased. On issue No.2, while determining the compensation, the Tribunal has fixed the earnings of the deceased at Rs.3,000/- per month or Rs.36,000/- per month and taking the age of wife of the deceased i.e., appellant No.1 as 26 years, applied multiplier factor ‘18’, and, though, stated that 1/3rd has to be deducted towards personal living expenses of the deceased, but strangely, instead of taking 2/3rd remainder as the multiplicand, somehow, taken 1/3rd as multiplicand. The calculation mentioned in paragraph No.20 of the order under challenge, reads thus:

“Rs.36,000/- x 18 x 1/3 = Rs.2,16,000/-”

7. There are certain defects in the order passed by the Tribunal, which are required to be rectified. Admittedly, the claim is laid under Section 163-A of the Act. Therefore, strictly the second schedule to Section 163-A of the Act is required to be resorted to in determining the compensation, to which the appellants are entitled. The earnings of the deceased taken by the Tribunal at Rs.36,000/- per annum is not disturbed, as it is not an appeal preferred by the opposite party. When

$1/3^{rd}$ is deducted therefrom, the remainder works out to Rs.24,000/- per annum, which is the contribution of the deceased towards his family.

8. Learned counsel for respondent No.2 would submit that the age of the deceased is shown as 34 years in the claim petition, but the Tribunal resorted to taking the age of appellant No.1 – wife of the deceased as 26 years and applied multiplier factor ‘18’, which is also not correct.

9. For a person aged 34 years, as per second Schedule to Section 163-A of the Act, the relevant multiplier factor is ‘17’. When the same is applied, the loss of dependency works out to Rs.4,08,000/-. The appellants are also entitled to general damages as provided in the schedule. Hence, towards funeral expenses, they are entitled to Rs.2,000/-. Towards loss of consortium, the spouse, who is appellant No.1, is entitled to Rs.5,000/-. Towards loss of estate, the appellants are entitled to Rs.2,500/-. Thus, the appellants are totally entitled to Rs.4,17,500/-.

10. Accordingly, the appeal is allowed in part awarding an amount of Rs.4,17,500/- as compensation, as against Rs.2,33,500/- awarded by the Tribunal. The Tribunal has awarded interest at 7.5% per annum. Since, the said rate of interest is in tune with the rate of interest at 7.5% per annum awarded by the Honourable Supreme Court in

Rajesh and others v. Rajbir Singh and others[1], the same is maintained on the enhanced amount also from the date of petition till the date of realization.

11. The enhanced amount shall be apportioned among the appellants in the same proportion in which the original compensation amount was directed to be apportioned and disbursed by the Tribunal.

12. Miscellaneous Petitions, if any, pending in this appeal shall stand closed. There shall be no order as to costs.

A. SHANKAR NARAYANA, J

October 10, 2017.
MD

[1] (2013) 9 SCC 54