

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

[*Special Original Jurisdiction*]

THURSDAY THE TWENTY SIXTH DAY OF OCTOBER
TWO THOUSAND AND SEVENTEEN

PRESENT
HONOURABLE DR. JUSTICE SHAMEEM AKTHER

MACMA.No. 2973 OF 2005

Between:

The National Insurance Co.Ltd.,
Rep. by its Branch Manager,
Branch Office: Kadapa,
Kadapa District. ... Appellant/Respondent No.2

V/s.

Ambam Sunitha & Ors. ... Respondents-Respondents



Counsel for the appellant : Sri Ramachandra Reddy Gadi

Counsel for the Respondents: : None appeared.

The court made the following: [Judgment follows]

HONOURABLE DR. JUSTICE SHAMEEM AKTHER**MACMA.No. 2973 OF 2005****J U D G M E N T :**

This Civil Miscellaneous Appeal is filed by the appellant/respondent No.2 [insurer] against the award and decree dated 10/01/2005 passed in OP.No. 102 of 2002 by the Motor Accident Claims Tribunal-cum-II-Additional District Judge], Madanapalle, Chittoor district.

2. Heard Sri Ramchandra Reddy Gadi, learned standing counsel for the appellant/respondent No.2 [insurer]. No representation on behalf of the respondents/claimants.

3. The learned standing counsel for the appellant/respondent No.2 [insurer] would contend that the Tribunal has granted compensation of Rs.3,49,000/- as against the claim of Rs.8,00,000/-. While determining the compensation on the ground of loss of income the Tribunal applied the multiplier 16 and awarded interest @ 9% per annum as per the decision of the Hon'ble Supreme Court in **SARLA VERMA & ORS. V/s. DELHI TRANSPORT CORPORATION AND ANR.**, reported in 2009 [6] SCC-121, the appropriate multiplier for the age of 47 years is 13. The Tribunal has erroneously determined the age of the deceased, Mr.K. Bhaskar, as 45 years. But

according to the birth certificate issued by the Gram Panchayat school, the age of the deceased on the date of occurrence of accident was 47 years old.

The birth certificate was not filed before the Tribunal and it is not received in the evidence, therefore, it is not appropriate to look into the certificate filed before this Court without following the required procedure. Though there is service of notice on the respondents/claimants, there is no representation on their behalf.

4. In view of the contention put forth by the learned standing counsel for the appellant/insurer, the point for determination is “whether the Tribunal has taken the correct multiplier while awarding the compensation to the respondents/claimants ?”

5. In the circumstances of the case and as per the evidence on record, the deceased was 45 years old. As per the decision of the Hon’ble Supreme Court in Sarla Verma [referred supra], the appropriate multiplier is 14 but the Tribunal has erroneously taken the multiplier as 16. The loss of dependency can be calculated taking the multiplier 14 into consideration. The Tribunal held that the earnings of the deceased were Rs.2,500/- per month, if 1/4th of the income is deducted towards personal expenses as there are four dependents on deceased and took the income of the deceased as Rs. 1875/- per month as contribution on the family members. So the loss of dependency

can be arrived on taking into consideration the multiplier 14, which comes to Rs. 1875 x 12 x 14 = 3,15,000/- . The respondents/claimants are entitled for the said amount for the loss of earnings. Further they are entitled to Rs.15,000/- towards loss of consortium and another Rs.15,000/- towards loss of estate. In all the respondents/claimants are entitled for Rs.3,45,000/- [Rs.3,15,000/- + Rs. 15,000/- + Rs.15,000/-]. The ratio ordered by the Tribunal is maintained in apportioning the compensation amount awarded i.e., Rs.3,45,000/- among the respondents/claimants 1 to 4.

6. The compensation payable to the respondents/claimants 1 to 4 is reduced to Rs.3,45,000/- from Rs.3,49,872/-. As far as the rate of interest is concerned, it is awarded @ 7.5% per annum from the date of filing of the claim-petition till the date of realization relying on the decision in **RAJESH AND ORS. V/s. RAJBIR SINGH AND ORS.**, reported in 2013-ACJ 1403.

7. In the result, the Civil Miscellaneous Appeal is allowed in part accordingly. There shall be no order as to costs.

8. As a sequel, miscellaneous petitions if any, pending in this MACMA shall stands disposed of.

DR. JUSTICE SHAMEEM AKTHER,

HONOURABLE DR. JUSTICE SHAMEEM AKTHER



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