

SMT JUSTICE T.RAJANI

M.A.C.M.A.NO.3816 OF 2008

JUDGMENT:

This appeal is preferred by the appellant, who is the claimant before the Court below assailing the award of the District Judge, Visakhapatnam in M.O.P.No.668 of 1995 dated 11.01.1999 on the grounds that the compensation awarded by the Court below is not adequate; the multiplier adopted by the Court below is not correct; and that the apportionment of 50% negligence on the part of the deceased is erroneous.

Heard the counsel for the appellant. Counsel for the respondents does not appear.

The Court below, by treating the accident as a head on collision, apportioned the compensation between the drivers of both the vehicles equally. But the evidence would show that the deceased was going on a scooter by driving the same and then a lorry came from the opposite direction and a scooter came from opposite direction by overtaking the said lorry and dashed against the scooter of the deceased. The circumstances under which the accident occurred would clearly imply negligence on the part of the driver of the other scooter. Simply because it is a case of head on collision, it need not be concluded that negligence is on the part of the two drivers. The circumstances also should be evaluated before arriving at a conclusion on the negligence. Hence, the approach of the Court below in apportioning the negligence between drivers of the two scooters cannot be sustained. The negligence is held to be on the part of the driver of the other scooter.

Regarding the compensation, the counsel contends that the multiplier adopted by the Court below, which is '12', is not the appropriate multiplier and as per the decision of the Apex Court in **Sarla Verma and Others v. Delhi Transport Corporation**¹ it should be '14'.

The said contention is acceptable as the Apex Court laid down the multipliers relevant for various age groups by discussing about the flaws in the II Schedule of the Motor Vehicles Act, 1988. Hence, '14' becomes the multiplier relevant to the age of the deceased which was mentioned as 41 years. Hence, Rs.24,800/-, which is the income arrived at by the Court below after deducting 1/3rd towards personal expenditure, has to be multiplied by multiplier '14', which comes to Rs.3,47,200/- (Rs.24,800/- X '14'). To the extent indicated above, the award of the Court below stands modified.

Accordingly, the appeal is allowed in part with proportionate costs. Miscellaneous petitions, if any, pending shall stand closed.

This award shall relate back to the date of the decree and the enhanced compensation shall carry interest at the rate specified and from the time indicated in the award of the Court below.

(T.RAJANI, J)

2nd November 2017
RRB

¹ (2009)6 SCC 121