THE HON'BLE MS JUSTICE J.UMA DEVI

M.A.C.M.A.NO.1343 OF 2007

JUDGMENT:

The New India Assurance Company Limited, which has been arrayed as second respondent in O.P.No.576 of 2004 on the file of the Chairman, MACT-cum-II Additional District Judge (FTC), at Adilabad, has come up with this appeal questioning the order passed by the Tribunal in the abovementioned OP disputing quantum of compensation awarded by the Tribunal.

The main contention of the appellant is that there is no proof establishing the earnings of the deceased; the Tribunal has awarded compensation on notional income by fixing the income of the deceased at Rs.3,000/- per month and the assessment so made by the Tribunal is contrary to law and the evidence on record. The compensation amount of Rs.3,12,000/- awarded by the Tribunal towards pecuniary damages is against the evidence available on record. The Tribunal also has erroneously awarded a sum of Rs.15,000/- towards funeral and other incidental expenses and another sum of Rs.15,000/- under the head of loss of estate. The Tribunal has grossly erred in applying multiplier '13' and therefore, the appellant states that the award passed by the Tribunal is unsustainable in law.

It is contended by the counsel of respondents 1 and 2, who are the claimants in O.P.No.576 of 2004, that the

Tribunal ought to have applied multiplier '18' instead of '13'. Since the deceased was aged about 20 years by the date of his death, the correct multiplier to be applied is '18'. The Tribunal instead of taking into consideration of the age of the deceased for assessing the multiplier, has taken the age of the mother of the deceased into consideration.

Respondents 1 and 2 have laid the claim as against the appellant and the owner of the lorry bearing No.MH-26-8094 for a sum of Rs.3,50,000/- regarding death of their son Satyanarayana Reddy in the accident dated 11.01.2004. The claimants' contention is that on 11.01.2004 at about 4.45 hours while the deceased Satyanarayana Reddy and others were loading vegetables in a lorry bearing No.MH-04-H-4381 at Suraram bus stage to take the load of vegetables to Mancherial market, a lorry bearing No.MH-26-8094 came from behind i.e. Luxettipet side in a rash and negligent manner and gave a hit to the deceased who was loading vegetables in lorry bearing No.MH-04-H-4381 along with other coolies and as a result of it, the deceased was crushed under the wheels of the lorry of the lorry bearing No.MH-26-8094 and died on the spot. Police of Luxettipet registered case against the driver of lorry bearing No.MH-26-8094 in Crime No.3 of 2004.

The claimants' further contention was that the deceased was aged about 25 years by the date of his death and he was earning Rs.9,000/- per month by attending to coolie work and was contributing his entire income for their welfare. Due to his sudden demise, they lost his love, affection and also his income contribution. To prove their case before the Tribunal, the claimants examined two witnesses and marked Exs.A1 to A6. The Tribunal, on appreciation of the evidence of P.W.2, Malyala Ravi Shankar, who was the eye witness to the abovementioned accident, came to the conclusion that the accident dated 11.01.2004 occurred due to the negligent driving of the lorry bearing No.MH-26-8094 which was hit to the deceased due to negligent driving by the driver and the said accident resulted instantaneous death of the deceased.

The evidence of P.Ws.1 and 2 establishes the fact that the deceased was working as coolie. The Tribunal, on appreciation of the evidence given by P.Ws.1 and 2, had rightly assessed the income of the deceased at Rs.3,000/- per month. After deducting one-third of the income of the deceased towards his personal expenditure, the Tribunal assessed the income contribution to his family at Rs.24,000/- per annum. Since the deceased was an unmarried person, the Tribunal, by taking into consideration the age of his mother Smt.N.Lakshmi, who was aged about 46 years by then, applied multiplier ‘13’ and awarded a sum of Rs.3,12,000/- towards pecuniary damages. The amount awarded by the Tribunal under the head of loss of estate and towards funeral and other expenses is fair and reasonable. This Court has not noticed any factual or legal error in the order passed by the Tribunal and therefore, this Court is of the view that the order passed by the Tribunal awarding compensation of Rs.3,42,000/- to the claimants together with interest @ 7.5% is sustainable in law. Therefore, the award passed by the Tribunal is hereby confirmed.

In the result, the appeal filed by the Insurance Company is dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand dismissed.

(J.UMA DEVI, J)

16th October 2017
RRB