HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.259 OF 2014

JUDGMENT:

The present appeal is preferred by respondent No.2 - M/s. United India Insurance Company Limited in M.V.O.P. No.1271 of 2007 on the file of the Chairman, Motor Accidents Claims Tribunal - cum - XI Additional District Judge (Fast Track Court), Guntur at Tenali (for short 'Tribunal') under Section 173 of the Motor Vehicles Act, 1988 (for short 'Act'), questioning the order, dated 04.01.2010, whereby and where-under, the Tribunal awarded a sum of Rs.3,00,000/- as compensation mulcting liability on respondent Nos.1 and 2, who are owner and insurer of the accident vehicle with interest at 7.5% per annum thereon and apportioning the compensation between the petitioners therein.

2. Respondent No.3 and the appellant herein, who are owner and insurer of the lorry, are respondent Nos.1 and 2 in the aforesaid MVOP, while respondent Nos.1 and 2 herein are the petitioners.

3. For the sake of convenience, the parties hereinafter referred to as they were arrayed in the MVOP.

4. There is no dispute in regard to the fact-situation occurring in the present case. Only dispute is, in regard to the quantum of compensation granted by the Tribunal.

5. Heard Sri Srinivasa Rao Vutla, learned standing counsel for the appellant - insurer, and Sri Nuthalapati Krishna Murthy, learned counsel for respondent Nos.1 and 2 - petitioners. It appears, the present appeal was already dismissed against respondent No.3, owner of the vehicle, by order, dated 19.02.2013. No application is filed to get the said order set aside. In fact, on this short ground itself, the present appeal is liable to be dismissed as in case the appellant herein is exonerated, respondent No.3 herein being the owner, who would have to pay the compensation to the petitioners, on whom liability ought to be mulcted.

6. Now, turning to the quantum of compensation awarded by the Tribunal, the Tribunal taken the monthly earnings at Rs.3,000/ on the ground that the deceased, who was working as cleaner, drawing an amount of Rs.2,000/- per month and Rs.50/- per day towards batta, and borrowed the multiplier factor '18' from the second schedule to Section 163-A of the Act, deducting half of his income towards his personal living expenses, taken the balance of Rs.3,24,000/-, which was computed towards loss of dependency, but restricted the same to Rs.3,00,000/- as the petitioners' claim was for Rs.3,00,000/-. Since there is no appeal preferred by the petitioners, nor cross-objections, there is no need to look at the aspect of removing the said rider.

7. Since the order of the Tribunal does not suffer from any legal infirmity and as the accident took place in the year 2007, the

amount determined and awarded by the Tribunal would satisfy the requirement of just and adequate compensation contemplated by the provisions of the Act. Hence, the present appeal is devoid of merit and the same is liable to be dismissed.

8. Even the rate of interest awarded by the Tribunal at 7.5% per annum is in tune with the rate of interest awarded by the Hon'ble Supreme Court in **Rajesh v. Rajbir Singh**[1], the same is maintained.

9. The present appeal is, accordingly, dismissed confirming the order and decree passed by the Tribunal in all respects. There shall be no order as to costs.

As a sequel thereto, miscellaneous applications, if any, pending in the appeal, stand disposed of.

A. SHANKAR NARAYANA, J

October 26, 2017.
Mgr

[1]. (2013) 9 SCC 54