

HONOURABLE SRI JUSTICE N.BALAYOGI

M.A.C.M.A.No.106 of 2008

ORDER:

Heard the learned Standing Counsel for the appellants and the learned counsel for the respondents-claimants.

The appellants-Insurance Company aggrieved by the Award, dated 21.04.2006 passed in O.P.No.1170 of 2004 on the file of the Chairman, Motor Accidents Claims Tribunal (Principal District Judge), Warangal (for short 'the Tribunal'), preferred the present appeal.

In brief, the case of the respondents/claimants is that on 13.04.2004 while the deceased-Billa Raghu along with his friend was returning to his village Sngaram on Bajaj M80 Moped bearing No.AP-36-F-7976 and when reached near Ramakrishnapur village on Khammam-Hanamkonda high way, lorry bearing No.ABK 6979, driven by its driver in a rash and negligent manner, dashed against the Bajaj M80 Moped, as a result of which, the deceased succumbed to injuries. Hence, the respondents-claimants filed O.P.No.1170 of 2004 claiming compensation of Rs.8,00,000/-.

The Tribunal, after considering the oral and documentary evidence, awarded compensation of Rs.5,34,000/- together with interest at 7.5% per annum from the date of petition till the date of realisation.

The grievance of the appellants is that the Tribunal erred in taking the monthly income of the deceased at Rs.5,000/- and applying the multiplier '13' instead of '10'.

On the other hand, the counsel for respondents contended that the Tribunal, having considered Ex.A-7 Salary Certificate and Ex.A-8-Service Register, took the age of the deceased as 24 years. Since the deceased is unmarried, taking into consideration the age of the mother of the deceased and applying Thrilok Chandra's case, applied multiplier '13'.

Further, as per Ex.A-7-Salary Certificate, the deceased was earning Rs.5,302/- per month. Therefore, the Tribunal has rightly taken the income of the deceased at Rs.5,000/- per month and there is no error or irregularity in the award passed by the Tribunal.

Now the point that arises for determination is whether the award in O.P.No.1170 of 2004 dated 21.04.2006 is suffered with legal infirmities warranting interference in the appeal?

It is not in dispute that the lorry bearing No.ABK 6979 was insured with the appellants and the policy was in force by the date of accident i.e., on 13.04.2004. It is also not the contention of the appellants that there is no negligence on the part of the driver of the lorry. The only contention of the appellants is that the Tribunal erred in considering the monthly income of the deceased at Rs.5,000/- and applying the multiplier '13' instead of '10'.

PW.1 is no other than the father of the deceased. The consistent evidence of PW.1 is that the deceased was 24 years old and was working as Police Constable and was drawing salary of Rs.5,300/- per month.

To substantiate their claim that the deceased was working as Police Constable and was drawing salary of Rs.5,300/- per month, the claimants have examined the Superintendent of District Police Officer, Warangal, as PW.3 and filed Ex.A-7-Salary Certificate and Ex.A-8-Service Register. The date of birth of the deceased was noted as 15.05.1979 in Ex.A-8-Service Register. Therefore, the deceased was aged 24 years by the date of death and the same is not in dispute.

Ex.A-8-Service Register supported the clinching evidence of PW.3 and it is further established that the deceased was appointed as

Constable with PC No.974 on 10.02.2004 and he was working as on the date of accident.

With regard to the income of the deceased, there is consistent corroborative evidence of PWs.1 and 3 and documentary evidence under Ex.A-7. A reading of Ex.A-7 with the evidence of PWs.1 and 3 goes to show that the gross salary of the deceased was Rs.5,302/- and net salary was Rs.4,593/-. The entries in Ex.A-8 Service Register and the evidence of PWs.1 and 2 would further establish that still there is 34 years leftover service for the deceased. Had he been alive and continued in service, he would have got several promotions and benefit of pay revisions in future.

Admittedly, as per the evidence of PW.1 and as per Ex.A-8-Service Register, the deceased was unmarried. As the deceased was unmarried, the Tribunal took the age of his mother as '45' for determination of the multiplier and taking into consideration Thirlok Chandra's case, applied multiplier '13'. There is no error either in considering the monthly income of the deceased at Rs.5,000/-, as it is evident from Ex.A-7 that the gross salary of the deceased was Rs.5,300/-, or applying the multiplier '13', as the mother of the deceased was aged 45 years by the date of accident.

In view of the facts and circumstances discussed above, I am of the considered view that the reasoning and findings of the Tribunal are based on settled principles, law and supported by oral and documentary evidence produced before the Tribunal. Therefore, I do not find any illegality or irregularity in the findings or reasons recorded by the Tribunal while passing the award.

Accordingly, I find that there are no infirmities in the award passed by the Tribunal warranting interference by this Court.

The appeal fails and is accordingly dismissed with costs while confirming the award passed by the Tribunal in O.P.No.1170 of 2004, dated 21.04.2006.

Advocate fee is fixed at Rs.2,500/-.

Miscellaneous petitions, if any pending, shall stand closed.

JUSTICE N. BALAYOGI

Dt: 22-09-2017
Prv



