THE HON'BLE SRI JUSTICE A.V.SESHA SAI

M.A.C.M.A.No.2648 of 2005

JUDGMENT:

Claimants 1 and 6 in M.V.O.P.No.362 of 2001 on the file of the Court of IX Additional District and Sessions Judge (FTC), Krishna, Machilipatnam are the appellants in the present appeal filed under Section 173 of Motor Vehicles Act. This appeal is filed, seeking enhancement of the compensation awarded by the Tribunal.

2. Heard and perused the material available before the Court.

3. The husband of the 1st appellant, one K.Venkataramaiah lost his life in a road accident, which took place on 14.7.2000. Claiming compensation of Rs.2,50,000/-, appellants herein along with Claimants 2 to 5 approached the Tribunal by way of filing M.V.O.P.No.362 of 2001. The owner of the vehicle remained exparte and the Respondent Insurance Company contested the matter by filing written statement. In order substantiate their claim, claimant No.1/appellant No.1 herein examined herself as P.W.1 and marked Exs.A1 to A7 documents and on behalf of Respondents, nobody was examined, but Ex.B1 Insurance policy was filed. On the basis of the pleadings available, the Tribunal framed the following issues for trial:

(1) Whether there is rash and negligent driving of the vehicle by its driver?

(2) Whether the petitioners are entitled to claim compensation, if so, to what amount and from which of the respondent?

(3) To what relief?

4. On issue No.1, the Tribunal categorically found that the accident took place due to rash and negligent driving of the offending vehicle. On issue No.2, as regards quantum of compensation, the Tribunal granted a sum of

Rs.93,000/-. The Tribunal adopted multiplier 7 for arriving at the said amount of compensation. Broadly, the contentions advanced by the learned counsel for the appellants are;

(1) The Tribunal grossly erred in arriving at the income @ Rs.50/- per day and Rs.1500/- per month. Elaborating the said contention, it is submitted by the learned counsel for the appellants that the said quantification undertaken by the Tribunal is contrary to the judgment of the Hon'ble Apex Court in Lata Wadhwa and Ors. v. State of Bihar and Ors.[1].

(2) The Tribunal grossly erred in adopting multiplier 7 instead of 13. In support of the said contention, the learned counsel placed reliance on the judgment in Smt. Sarla Verma and Ors. vs. Delhi Transport Corporation and Anr[2].

(3) The compensation awarded under the heads "funeral expenses, loss of consortium, loss of estate" are also paltry and are not in accordance with law. In support of the said contention, the learned counsel placed reliance on the judgment in National Insurance Company Ltd. v. Pranay Sethi and others[3].

5. With regard to the first contention, it is required to be noted that in *Lata Wadhwa's* case (1 supra), the Hon'ble Supreme Court ruled that the minimum income per month should be taken as Rs.3,000/-. If the same is taken into consideration according to the said judgment, the annual income is required to be quantified as Rs.36,000/-. According to *Sarla Verma* 's case (2 supra), the multiplier to be adopted for the persons between 46 and 50 of age should be 13. If 1/3rd is deducted from the annual income towards personal

[1] (2001) 8 SCC 197
[2] (2009) 6 SCC 121
[3] SLP (Civil) No.25590/14 dt.30.10.2017

expenses, the same would come to Rs.24,000/- and if multiplier 13 is adopted, the amount payable to the appellants herein would be Rs.3,12,000/. Therefore, the amount payable towards loss of dependency should be Rs.3,12,000/-.

6. With regard to the amount payable under other heads, such as, loss of estate, loss of estate, loss of consortium and funeral expenses, the Hon'ble Apex court in *Pranay Sethi* 's case (3 supra), at paragraph 61(viii) held as under:

> "Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs.15,000/-, Rs.40,000/- and Rs.15,000/- respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years".

Therefore, the claimants are entitled for the above said sums of Rs.15,000/- towards loss of estate, Rs.40,000/- towards loss of consortium and Rs.15,000/- towards funeral expenses.

7. In the result, this Appeal is allowed in part, granting total compensation of Rs.3,82,2000/-. It is made clear that the enhanced compensation shall carry interest @ 7.5% per annum. It is further made clear that the claimants shall pay court fee on the enhanced amounts also. The other conditions including the condition as to the apportionment indicated in the impugned award shall remain intact. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 7.12.2017
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