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

M.A.C.M.A.No.2679 of 2007

JUDGMENT:

Heard Sri V.Atchuta Ram, learned counsel for the appellants, and Sri Somanchi Venkateswarlu, learned Standing Counsel for the second respondent-insurance company, apart from perusing the material available before this Court.

The claimants in O.P.No.146 of 2006 on the file of the XXII Additional Chief Judge-cum-Motor Accidents Claims Tribunal, City Criminal Court, Hyderabad are the appellants in the present appeal filed under Section 173 of the Motor Vehicles Act, 1988 (for brevity, 'the Act'). First appellant is the wife, appellant Nos.2 and 3 are the children and appellant Nos.4 and 5 are the parents of the deceased, late Sri B.Raju @ Rajappa. The said Raju lost his life in a road accident on 26.09.2005 when he was 26 years old. Followed by the said accident, the police registered Cr.No.223 of 2005 under Section 304-A IPC against the driver of the offending vehicle-lorry bearing No.AP 03U 1513.

The appellants herein filed O.P.No.146 of 2006 before the Court below under Section 163-A of the Act claiming compensation of Rs.5,00,000/- together with interest and costs. The owner of the vehicle did not appear before the Tribunal and she was set *ex parte*. The second respondent-insurance company contested the O.P. by filing written statement. On the basis of the material available, the Tribunal framed the following issues for consideration:

1. Whether the accident took place on 26.09.2005 at 11.30 p.m. due to rash and negligent driving of lorry bearing No.AP 03U 1513 by its driver ?
2. Whether the petitioners are entitled to claim compensation from the respondents? If so, to what amount and from whom?
3. To what other relief?

During the course of trial, on behalf of the claimants-appellants herein, the wife of the deceased-claimant No.1 was examined as P.W.1 and also examined P.W.2, who witnessed the accident. On behalf of the claimants/appellants herein, Exs.A1 to A5 were marked. On behalf of the respondents, no oral evidence was adduced but Ex.B1-insurance policy was marked.

The deceased was 26 years old at the time of the accident. On issue No.1, the Tribunal found that the death was due to the rash and negligent driving of the driver of the offending vehicle. The Tribunal fixed the monthly income of the deceased at Rs.1800/- and, after deducting 1/3rd of the same towards personal expenditure, the Tribunal fixed the contribution at Rs.1200/- p.m. and accordingly fixed the annual contribution at Rs.14,400/- (Rs.1200/- X 12) and rounded off the same as Rs.15,000/- p.a. The Tribunal adopted the multiplier of ‘18’. Apart from the same, the Tribunal awarded Rs.2000/- towards funeral expenses, Rs.5000/- towards loss of consortium and Rs.2500/- towards loss of estate and, eventually, the Tribunal arrived at Rs.2,79,500/-, rounded off the same to Rs.2,80,000/- and awarded interest @ 6%p.a. from the date of the petition till the date of deposit.

According to the learned counsel for the appellants the Tribunal grossly erred in deducting 1/3rd of the income of the deceased and that the Tribunal ought to have deducted 1/4th only. In support of the said contention, learned counsel placed reliance on the judgment of the Honourable Apex Court in ***SARALA VERMA (SMT.) & OTHERS V. DELHI TRANSPORT CORPORATION & ANOTHER*[1]*.*** Learned counsel would submit that the amounts awarded towards other heads are also meagre as per the judgment of the Honourable Apex Court in ***NATIONAL INSURANCE COMPANY LIMITED v. PRANAY SETHI & OTHERS*** (S.L.P.(civil) No.25590 of 2014 and batch) dated 30.10.2017. It is the further submission of the learned counsel that the Tribunal also grossly erred in awarding interest @ 6% and it ought to have awarded 7.5% p.a.

On the contrary, it is vehemently contended by the learned Standing Counsel that the Tribunal awarded just and reasonable compensation and that as per ***Sarala Verma*** (first cited supra), the multiplier which needs to be adopted is '17' but not '18' as adopted by the Tribunal.

In ***Sarala Verma*** (first cited supra), the Honourable Apex Court held that 1/4th of the income of the deceased only can be deducted towards personal expenses, where the number of dependent family members is 4 to 6. In the instant case also the dependents are '5' in number. Therefore, the Tribunal ought to have deducted only 1/4th instead of 1/3rd. In ***National Insurance Company*** (second cited supra) the Honourable Apex Court, while dealing with the compensation towards other heads, held as under:

> "Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses

[1] (2009) 6 SCC 121

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".

As contended by the learned counsel for the second respondent-insurance company, the multiplier to be adopted as per ***Sarala Verma*** (first cited supra), is only '17' but not '18' as adopted by the Tribunal. Therefore, in the considered opinion of this Court, the following are the just and reasonable amounts to be awarded to the claimants/appellants. The Tribunal estimated the monthly income @ Rs.1800/-, and, after deducting 1/4th of the same towards personal expenses, it comes to Rs.1350/- and, therefore, the annual contribution is arrived at Rs.16,200/- (Rs.1350/- X12). As per ***Sarala Verma*** (first cited supra) the multiplier to be adopted is '17' and if the same is applied, the claimants are entitled to Rs.2,75,400/- (Rs.16,200/-X17) towards loss of dependency. As per ***National Insurance Company*** (second cited supra) the claimants-appellants are entitled to Rs.15,000/-, Rs.40,000/- and Rs.15,000/- towards loss of estate, loss of consortium and funeral expenses respectively. In view of the above, the amounts payable to the claimants-appellants are as follows:

Amount towards loss of dependency:	Rs.2,75,400/-
Amount towards loss of estate:	Rs.15,000/-
Amount towards loss of consortium :	Rs.40,000/-
Amount towards funeral expenses:	Rs.15,000/-
Total:	Rs.3,45,400/-

For the aforesaid reasons, the appeal is allowed in part, enhancing the compensation from Rs.2,80,000/- to Rs.3,45,400/- with interest @ 7.5% p.a. from the date of the petition till the date of deposit with proportionate costs. It is made clear that the claimants-appellants are entitled to the amounts in the same proportion, as indicated in the impugned decree, and the other conditions, as stipulated in the impugned award, shall remain intact.

As a sequel thereto, miscellaneous Petitions pending, if any, in this appeal, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI,J

04th December, 2017
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