

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A. No. 2737 OF 2005

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), by the appellants-petitioners in M.V.O.P. No.887 of 2000 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-I Additional District Judge, Cuddapah (for short, 'the Tribunal'), having got dissatisfied with the award of compensation of Rs.1,55,000/- with interest at the rate of 9% per annum from the date of petition till realisation, granted by the Tribunal, *vide* the order dated 18.11.2003, as against the claim of Rs.2,50,000/- laid under Section 166 of the Act for the death of Amanchi Lakshmamma in a motor accident occurred on 29.08.1999.

2. Heard the learned counsel for the appellants-petitioners and the learned Standing Counsel for respondent No.2-insurer. Though served with notice, none appeared on behalf of respondent No.1-owner of the crime vehicle. However, non-appearance of respondent No.1-owner of the accident vehicle is of no consequence to decide the quantum of compensation, in view of the decision of a Division Bench of this Court in **Meka Chakra Rao v. Yelubandi Babu Rao @ Reddemma and others**¹.

3. The parties hereinafter are referred to as arrayed before the Tribunal.

4. Learned counsel for the appellants-petitioners would contend that the deceased was 35 years old, earning more than Rs.3,000/- per month; the petitioners claimed compensation of Rs.2,50,000/- and the Tribunal has granted only Rs.1,55,000/-, which is meagre; the Tribunal has

¹ 2001(1) ALT 495 (D.B.)

granted lesser amounts towards loss of earnings, loss of estate, loss consortium and other heads; and ultimately, prayed to enhance the compensation as prayed for.

5. On the other hand, learned Standing Counsel for respondent No.2-insurer would submit that the Tribunal after analysing the entire evidence, granted compensation of Rs.1,55,000/-, which is quite just and reasonable; there are no circumstances to enhance the compensation; and ultimately, prayed to dismiss the appeal.

6. There is no much contest with regard to the rash and negligent driving of the driver of the jeep bearing No.AP 04C 6412 in causing death of the deceased-Amanchi Lakshmamma. The petitioners are the husband and son of the deceased.

7. The only point that has come up for determination is, whether the petitioners are entitled for enhancement of compensation as prayed for?

8. There is evidence to believe that the deceased was weaving clothes. The Tribunal had taken the annual earnings of the deceased as Rs.15,000/-, deducted $\frac{1}{3}^{\text{rd}}$ therefrom towards personal living expenses of the deceased, applied multiplier '13' and awarded Rs.1,30,000/- towards loss of dependency, Rs.15,000/- towards loss of consortium and Rs.10,000/- towards transportation charges. As the deceased was 45 years old on the date of occurrence of accident and she was weaving clothes, her monthly income can be taken as Rs.1,800/- per month. Out of which, $\frac{1}{3}^{\text{rd}}$ is to be deducted towards personal expenses of the deceased. The contribution of the deceased to the family comes to Rs.1,200/- per month and Rs.14,400/- per annum. The suitable multiplier for the age of

the deceased is '14' as per the decision of the Hon'ble Supreme Court in **Sarla Verma & others v. Delhi Transport Corporation and another**². When the said multiplier is applied, the loss of dependency comes to Rs.2,01,600/- (Rs.14,400/- x 14) and the said amount is granted. Besides the same, petitioner No.1 being the husband of the deceased is entitled to a sum of Rs.20,000/- towards loss of consortium and both the petitioners are entitled to a sum of Rs.28,400/- towards transportation, funeral expenses, loss of estate, love and affection, etc. In all, the petitioners are entitled to a compensation of Rs.2,50,000/-. So, far as the rate of interest is concerned, the Tribunal granted interest at 9% per annum, which is maintained on the compensation granted by the Tribunal. In view of the decision of the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**³, the petitioners are entitled to interest at the rate of 7.5% per annum on the enhanced compensation from the date of filing of the petition till the date of realisation. Accordingly, this point is answered.

9. In the result, this appeal is allowed, modifying the order dated 18.11.2003 passed by the Tribunal in M.V.O.P. No.887 of 2000 and the amount of Rs.1,55,000/- granted by the Tribunal is enhanced to Rs.2,50,000/-. the enhanced compensation carries rate of interest at 7.5% per annum from the date of filing of claim petition till the date of deposit. On deposit of the enhanced compensation, both the appellants-petitioners are entitled to share the enhanced compensation equally and they are permitted to withdraw the same. The other terms of the order under challenge remained unchanged. There shall be no order as to costs.

² (2009) 6 SCC 121

³ 2013 ACJ 1403

10. Miscellaneous Petitions pending, if any, shall also stand dismissed.

Date: 25.10.2017
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Dr. SHAMEEM AKTHER, J

