

**THE HON'BLE MS.JUSTICE J.UMA DEVI**

**M.A.C.M.A.NO.3111 OF 2005**

**ORDER:**

The order, dated 27-06-2005, passed by the Chairman, I Addl. Motor Accident Claims Tribunal, Nizamabad (for brevity 'the Tribunal'), in O.P.No.2062 of 2001 is assailed by the claimants in the above mentioned O.P. with the main contention that the compensation amount of Rs.1,72,500/- awarded by the Tribunal in respect of death of their son S.Subhash (hereinafter referred to as 'the deceased') is not fair and reasonable.

2. The case of the appellants/claimants is briefly stated as follows:

That on 28-03-2001 at about 7.30 P.M., while the deceased and his father S.Sailoo (1<sup>st</sup> appellant herein) were standing by the side of the road near Elavoor village, Tamilnadu State, a lorry tanker bearing No. TN 28A 6696 came in their opposite direction in a rash and negligent manner and dashed the deceased. The front wheel of the above mentioned lorry was run over the deceased and due to which, he sustained several fracture injuries and died on the spot.

3. The claimants to prove that the above mentioned accident had occurred due to rash and negligent driving of the lorry tanker bearing No. TN 28A 6696, got examined S.Sailoo, the father of the deceased and also one Nagnath Reddy as P.W.2, who witnessed the above mentioned accident.

4. The Tribunal on appreciation of evidence of P.Ws. 1 and 2 and Exs.A1 to A4, which were relating to crime registered against the driver of the offending lorry where the negligent was attributed to the driver, had given a finding that

the accident dated 28-03-2001, which resulted in instantaneous death of the deceased S.Subhash occurred on account of rash and negligent driving of the driver of the lorry tanker bearing No. TN 28A 6696 and accordingly answered Issue No.1 in favour of the appellants/claimants.

5. The appellants/claimants main contention is that their son S.Subhash was aged about 18 years by the date of accident and was rendering his help to them in maintaining the family etc., The Tribunal had not awarded any compensation under the head of loss of estate and that the amount of Rs.20,000/- which was awarded under the head of loss of love and affection was very meager and low. The appellants being the parents of the deceased contended that the deceased would have rendered his support to them in their old age if his death had not taken place suddenly and due to his untimely death, they were put to suffer and untold hardship and agony. The Tribunal also ought to have awarded some more amount under the head of funeral expenditure as against Rs.2,500/-. These were the main contentions raised by the appellants to question the order, dated 27-06-2005 passed by the Tribunal.

6. I have perused the order, dated 27-06-2005. The Tribunal relying on the evidence given by P.W.2-Nagnath Reddy, who was the eye-witness to the accident, which was the cause of the instantaneous death of the deceased and the other documentary evidence available in the case record had given a finding that the driver of the lorry tanker bearing No. TN 28A 6696 was responsible for occurrence of the above mentioned accident and accordingly it held that the owner of the above mentioned lorry liable vicariously for the negligent act of his driver. The Tribunal also had fastened the liability against the 2<sup>nd</sup> respondent-Insurance Company, which agreed to indemnify

the liability of the vehicle owner by virtue of the policy taken by him in respect of the crime vehicle.

7. The Tribunal had awarded a sum of Rs.1,50,000/- under the head of loss of earnings by taking into consideration the income of the deceased notionally at Rs.15,000/- per month. Since the deceased was not married, the Tribunal taking into consideration the age of his mother, had applied multiplier 15 and accordingly awarded a sum of Rs.1,50,000/- under the head of loss of earnings. The Tribunal had not awarded any amount under the head of estate as rightly pointed out by the learned counsel for the appellants. The Tribunal had not assigned any reasons for not awarding compensation under the head of loss of estate.

8. Since no amount is awarded under the head of loss of earnings, a sum of Rs.20,000/- is awarded under the head of loss of earnings. Taking into consideration of the fact that the appellants have lost their young aged son, this Court feels that awarding a sum of Rs.75,000/- under the head of loss of love and affection is just and reasonable. This Court is also of the view that the amount awarded under the head of funeral expenses can be enhanced to Rs.5,000/- as against Rs.2,500/- The appellants/claimants are thus entitled to get total compensation of Rs.2,50,000/- as against Rs.1,72,500/-.

9. Accordingly, this appeal is allowed in part enhancing the compensation amount from Rs.1,72,500/- to Rs.2,50,000/-. The enhanced compensation amount carries interest at 7.5% per annum from the date of filing of the petition till the date of realization. The respondents 1 and 2 being the owner and insurer of the lorry tanker bearing No. TN 28A 6696 are held liable to pay the above mentioned compensation amount jointly and severally. There shall be no

order as to costs. Miscellaneous petitions, if any, pending in this appeal shall stand closed.

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**J.UMA DEVI, J**

**DATED: 27<sup>th</sup> DAY OF APRIL, 2017.**  
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