

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

CIVIL MISCELLANEOUS APPEAL No.4631 OF 2004

JUDGMENT:

The instant appeal is preferred under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), seeking enhancement of compensation on the ground that the amount of Rs.1,01,600/- awarded by the Chairman, Motor Accidents Claims Tribunal-cum-III Additional District Judge, Chittoor at Tirupati (for short, 'the Tribunal') in M.V.O.P.No.270 of 1994, dated 14.07.1998, as against the claim of Rs.2,10,000/-, though, originally the claim was for Rs.1,50,000/-, laid under Section 166 of the Act, is on lower side.

2. Originally, when the aforesaid O.P and another separate O.P of petitioner No.1 - appellant No.1 herein, who is the husband of the deceased, were laid before the Tribunal, there was delay and, therefore, I.A.Nos.904 and 903 of 1993, respectively, were filed under Section 151 CPC to condone the delay. The Tribunal, by common order dated 24.01.1994, dismissed I.A.No.903 of 1993 and allowed I.A.No.904 of 1993 so far as petitioner Nos.2 and 3 - appellant Nos.2 and 3 herein, who are the children of the deceased and appellant No.1, are concerned. Aggrieved thereby, the husband of the deceased preferred C.M.A.Nos.339 of 1995 and 340 of 1994, respectively, before this Court. When the CMAs were pending for disposal, the Tribunal conducted trial and disposed of the aforesaid O.P awarding a sum of Rs.1,01,600/- as compensation to the children, who are the appellants 2

and 3 herein. Thereafter, by common order dated 02.12.1999, both the CMAs were allowed setting aside the orders of the Tribunal and remanding the matters to the Tribunal with a direction to take up the main petitions and decide them in accordance with law. Pursuant thereto, the Tribunal has taken up the aforesaid M.V.O.P again only to the extent of considering the claim of appellant No.1 herein and allowed the same on 13.11.2011 awarding a sum of Rs.5,000/- towards loss of consortium from out of the compensation already deposited. Thus, all the claimants have preferred the present Civil Miscellaneous Appeal seeking enhancement.

3. Heard Sri M.Venkataramana Reddy, learned counsel for the appellants – petitioners, and Sri Aravala Rama Rao, learned Standing Counsel for the 1st respondent – erstwhile Andhra Pradesh State Road Transport Corporation. So far as respondent Nos.2 and 3 are concerned, who are the owner and insurer-M/s. United Indian Insurance Company Limited of the jeep bearing No.AAG 4342, the appeal stood dismissed for default on 08.02.2016.

4. There is no dispute in regard to the fact-situation occurring in the present case.

5. The Tribunal has taken income of the deceased, who was the wife of petitioner No.1 and the mother of petitioner Nos.2 and 3, at Rs.600/- per month, which was claimed by the petitioners, and having deducted 1/3rd thereof towards personal living expenses of the deceased, which comes to Rs.200/- out of Rs.600/-, treated the remaining amount

of Rs.400/- per month or Rs.4,800/- per annum as contribution of the deceased to the family and taking the age of the deceased as 30 years and applying the multiplier factor '16.51', perhaps provided in **Bhagwandas v. Mohd. Arif¹**, rounding it to '17', arrived at Rs.81,600/- towards loss of dependency. This apart, the Tribunal granted Rs.10,000/- towards love and affection and Rs.10,000/- towards pain and suffering and, in all, awarded Rs.1,01,600/- with interest at 12% per annum, by order dated 14.07.1998. On the ground that meagre compensation was granted, the present appeal is preferred.

6. There is absolutely no flaw in the finding recorded by the Tribunal for the reason that the earnings of the deceased shown by the petitioners were accepted by the Tribunal. Even the multiplier factor '17', which is also the multiplier factor for the age group between 26 and 30 as per the table formulated by the Honourable Apex Court in **Sarla Verma & others v. Delhi Transport Corporation and another²**, is appropriately applied. The amount of Rs.10,000/- granted towards pain and suffering, which ought not to have been granted, but, still, granted, is maintained, as the same is not challenged. However, keeping in view, the fact that petitioner No.1 lost his spouse, certainly, he is entitled to enhancement of consortium granted by the Tribunal and also entitled to conventional sums in view of the decision of the Hon'ble Supreme Court in **Ramilaben Chinubhai Parmar v. National Insurance Company³**. Accordingly, towards consortium and conventional sums, a sum of

¹ AIR 1988 AP 99

² (2009) 6 Supreme Court Cases 121

³ LAWS (SC) -2014-4-67

Rs.50,000/- is granted enhancing consortium of Rs.5,000/- granted by the Tribunal. Therefore, a sum of Rs.50,000/- is granted in addition to Rs.1,01,600/- granted by the Tribunal, making a total sum of Rs.1,51,600/-.

7. Thus, the petitioners are entitled to a total sum of Rs.1,51,600/- (Rupees One lakh fifty one thousand six hundred), as against Rs.1,01,600/- granted by the Tribunal, towards compensation and the same is, accordingly, granted.

8. So far as the rate of interest is concerned, the Tribunal granted interest at 12% per annum and the same is maintained on the amount of Rs.1,01,600/- granted by the Tribunal, but on the enhanced amount, interest at 7.5% per annum is granted from the date of petition till realisation as per the decision of the Hon'ble Apex Court in **Rajesh and others v. Rajbir Singh and others**⁴.

9. Accordingly, the instant appeal is allowed in part, modifying the orders passed by the Tribunal, by enhancing the compensation, as indicated above, and confirming the same in all other respects. There shall be no order as to costs.

As a sequel thereto, miscellaneous applications, if any, pending in the instant appeal, stand disposed of. There shall be no order as to costs.

JUSTICE A.SHANKAR NARAYANA

09.10.2017
v v

⁴ 2013 ACJ 1403