HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL MISCELLANEOUS APPEAL No.2599 OF 2004

JUDGMENT:

The present Civil Miscellaneous Appeal is filed by the parents of the deceased - Shaik Saleem under Section 173 of the Motor Vehicles Act, 1973, on the ground that the award of Rs.4.00 lakh as compensation for the death of their son was inadequate.

2. The aforesaid amount was awarded by the order, dated 22.11.2002, in O.P. No.468 of 2000 on the file of the Chairman, Motor Accidents Claims Tribunal - cum - Additional District Judge, Nizamabad (for short 'Tribunal') as against the claim of Rs.5,21,000/- laid by the appellants under Section 166 of the Motor Vehicles Act, 1988 read with Rule 455 of the Andhra Pradesh Motor Vehicles Rules, 1989.

3. The appellants herein are the petitioners in the aforesaid O.P., while respondent Nos.1 to 3, who are driver, owner and insurer of Van bearing registration No.AP 25T 6786, are respondents as such.

4. For the sake of convenience, the parties hereinafter referred to as they were arrayed in the aforesaid O.P. before the Tribunal.

5. The fact-situation herein is not in dispute. It is only in regard to the quantum of compensation, there is dispute between the parties. The Tribunal on point No.2, taken the income of the deceased

at Rs.100/- per day or Rs.3,000/- per month or Rs.36,000/- per annum and deducted 1/3rd towards his personal expenses and the remaining towards contribution to his parents. Thus, the learned Tribunal has taken Rs.24,000/- per annum towards contribution, applied multiplier factor '16' basing on the age of the younger parent of the deceased and arrived at Rs.3,84,000/- towards contribution. Besides the same, the Tribunal has granted Rs.6,000/- towards funeral expenses of the deceased, and somehow, granted Rs.4.00 lakhs towards compensation.

6. Dissatisfied with the said amount, the present appeal is preferred by the parents - appellants.

7. Heard K. M. Mahender Reddy, learned counsel for the appellants, and Mrs. A. Jayanthi, learned counsel for respondent No.3 - Insurer. Respondent No.1 is shown as not necessary party. The appeal against respondent No.2 was dismissed, but respondent No.2 suffered a decree passed by the Tribunal.

8. The learned counsel for the petitioners - Sri K.M. Mahender Reddy, would submit that the age of the deceased for considering the appropriate multiplier factor, though, died in unmarried status, ought to be taken in view of the decision in **Munna Lal Jain and another v. Vipin Kumar Sharma and others**[1]. It is also his submission that future prospects ought to be granted at 50% and, therefore, sought to award the amounts. It is his further submission that the Hon'ble

1. (2015) 6 SCC 347

Supreme Court in **Ramachandrappa v. Manager, Royal Sundaram Alliance Insurance Company Limited**[2] taken the earnings of a Cooli at Rs.4,500/- and, therefore, to adopt the monthly earnings at Rs.4,500/- per month and determine the compensation. He even placed reliance in **Syed Sadiq and others v. Divisional Manager, United India Insurance Company Limited**[3], to take the income of Rs.4,500/-, more particularly, basing on the observations that in the present state of economy and rising prices in agricultural products, vegetable vendor reasonably capable of earning Rs.6,500/- per month, and production of documents to prove monthly income cannot be expected.

9. On two aspects, there has been dispute between both sides i.e., petitioners and insurer.

i) The first is, according to the learned counsel for the petitioners, the Tribunal wrongly fixed the annual earnings and ought to have taken at least Rs.6,500/- per month as held by the Hon'ble Supreme Court in **Munna Lal Jain's Case** (Supra 1), and even in **Ramachandrappa's Case** (Supra 2), Rs.4,500/- per month was the earning capacity as a coolie found by the Hon'ble Supreme Court and, therefore, Rs.3,000/- per month fixed by the Tribunal was totally inadequate.

---

2. (2011) 13 SCC 236
3. (2014) 2 SCC 735

ii) Second relates to granting future prospects. Admittedly, the Tribunal has not awarded any future prospects.

iii) The learned counsel for the petitioners would submit that even self-employed persons are entitled to future prospects who died in unmarried status. He relies on the decision in **Munna Lal Jain's Case** (Supra 1), where a self-employed pandit died in the accident in unmarried status. When his parents laid the claim, future prospects at 50% on the loss of dependency determined, was added. Thus, the said decision is relied on by the learned counsel for the petitioners for both the purposes.

iv) The learned standing counsel for respondent No.3 - Insurer would submit that in the year 2000, since the accident occurred on 12.04.2000, a coolie would not be earning more than Rs.50/- per day and, therefore, the earnings taken by the Tribunal cannot be faulted and the petitioners are not entitled to any enhancement.

10. On second aspect, it is the submission of the learned standing counsel that since the deceased was working as cooli, applying the principle of awarding amounts towards future prospects does not arise and the Hon'ble Supreme Court in **Sarla Verma v. Delhi Transport Corporation,**[4] declared that future prospects can only be awarded to those persons who are salaried and, therefore, the

[4]. 2009 ACJ 1298

petitioners are not entitled to any amount towards future prospects in addition to what was determined by the Tribunal.

11. In **Ramachandrappa's Case** (Supra 2), the accident occurred in the year 2004. As against Rs.3,000/- fixed by the Tribunal for a cooli, the Hon'ble Supreme Court fixed the earnings at Rs.4,500/- per month. In **Munna Lal Jain's Case** (Supra 1), the deceased was self-employed working as pandit and the accident occurred on 12.07.2008.

12. In the present case, the accident occurred on 12.04.2000, almost four years prior to the accident that occurred in **Ramachandrappa's Case** (Supra 2). Therefore, it cannot be said that in 2000 year, a coolie was earning Rs.4,500/- per month. Hence, the award of Rs.100/- per day taken by the Tribunal or Rs.3,000/- per month or Rs.36,000/- per year cannot be faulted. That finding, therefore, is confirmed.

13. The fact-situation in **Syed Sadiq's Case** (Supra 3) would reflect that the injured was suffering with 85% functional disability in a motor accident; the Karnataka State Minimum Wages Rules were applied and it was held that the appellant therein, who was injured, was entitled to Rs.4,246/- per month rounding it off to Rs.4,300/- per month and barter charges of Rs.700/- were also added, making it Rs.5,000/- and multiplier '18' was applied and 50% in regard to future

loss of income was also added. But, the fact-situation would reflect that the accident in the said case did take place on 14.02.2008.

14. Turning to future prospects, if the law declared by the Hon'ble Supreme Court in **Munna Lal Jain's Case** (Supra 1) is applied, certainly, the petitioners are entitled to future prospects at 50% in addition to the amount determined by the Tribunal towards compensation. The petitioners herein are also entitled to future prospects at 50% as the deceased was aged 20 years.

15. Now, turning to determination of compensation, the Tribunal has taken Rs.36,000/- per annum and deducted 1/3rd towards his personal expenses. Admittedly, the deceased died in unmarried status and, therefore, 50% thereof is to be deducted towards his personal living expenses. Thus, the contribution works out to Rs.18,000/- per annum. The relevant multiplier taken by the Tribunal was '16' basing on the age of the mother of the deceased, but the age of the deceased is the criteria in fixing the multiplier factor as held in **Munna Lal Jain's Case** (Supra 1) and **Sarla Verma's Case** (Supra 4). Therefore, when the multiplier factor '18' is applied, the loss of depdency works out to Rs.3,24,000/-. In addition thereto, when 50% thereof is added towards future prospects, the loss of dependency totally works out to Rs.4,86,000/- [Rs.3,24,000/- + Rs.1,62,000/-]. The Tribunal has awarded Rs.6,000/- towards funeral expenses of the deceased, the same is confirmed. . Thus, in all, the petitioners are entitled to Rs.4,92,000/-

16. Concerning rate of interest, the Tribunal has granted the same at 9% per annum, the same is not disturbed on the amount awarded by the Tribunal. However, on the enhanced amount of Rs.92,000/-, interest is granted at the rate of 7.5% per annum from the date of petition in view of the decision of the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**[5].

17. In the result, the appeal is allowed in part, and the order and decree, dated 22-11-2002, in O.P. No.468 of 2000, passed by the Tribunal, are modified, enhancing the compensation to Rs.4,92,000/- from Rs.4,00,000/- with interest at the rate of 9% per annum on the amount of Rs.4,00,000/- granted by the Tribunal and at the rate of 7.5% per annum on the enhanced amount of Rs.92,000/- from the date of petition. The compensation shall be apportioned between the petitioners in the same proportion in which the original compensation was directed to be apportioned and disbursed by the Tribunal. There shall be no order as to costs.

As a sequel thereto, miscellaneous applications, if any, pending in the appeal, stand disposed of.

A. SHANKAR NARAYANA, J

August 16, 2017.
Mgr

[5]. 2013 ACJ 1403