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

M.A.C.M.A.No.2019 of 2005

<u>JUDGMENT</u>:

Heard learned counsel for the appellants and Sri N.J.Sunil Kumar, learned Standing Counsel for the second respondent-insurance company, apart from perusing the material available before this Court.

In the present appeal, filed under Section 173 of the Motor Vehicles Act, 1988 (for brevity, 'the Act'), claimants/appellants herein are seeking enhancement of compensation awarded by the Motor Vehicles Accidents Claims Tribunal-cum-III Additional District Judge, Guntur in M.V.O.P.No.765 of 2000 by way of an order, dated 03.11.2004.

The case of the claimants/appellants is that the husband of the first claimant, Sri T.Narasaiah, lost his life on 13.06.2000 in a lorry accident. According to the claimants, the deceased was an agricultural coolie and earning Rs.3000/- per month and that the accident took place due of the rash and negligent driving of the driver of the vehicle bearing No.AP K-8255. Before the Tribunal the first respondent remained *ex parte* and the second respondent-insurance company contested the case by filing written statement. On the basis of the pleadings available, the Tribunal framed the following issues for consideration:

1. Whether the accident occurred due to rash and negligent driving of the driver of lorry bearing No.A.P.K-8255 ?
2. Whether the petitioners are entitled to compensation and if so, to what amount and against whom?
3. To what relief?

To substantiate their case, first claimant, who is the wife of the deceased, examined herself as P.W.1 and also examined P.W.2, who witnessed the accident and who was going along with the deceased at the time of accident. On behalf of the claimants/appellants herein, Exs.A1 to A4 were marked. On behalf of the respondents, R.Ws.1 to 3 were examined and Exs.B1 to B4 were marked and Exs.X1 and X2 were also marked.

The learned Presiding Officer granted a sum of Rs.1,49,000/- i.e. Rs.1,40,000/- towards loss of dependency, Rs.5000/- towards loss of consortium to the first claimant and Rs.4000/- towards funeral expenses and also granted interest @ 9% p.a. from the date of the petition till the date of deposit with proportionate costs.

According to the learned counsel for the appellants, the multiplier applied by the Tribunal is not in accordance with law and the Tribunal awarded paltry sums towards consortium and funeral expenses and the Tribunal grossly erred in not granting any amount towards loss of estate.

On the contrary, it is submitted by the learned Standing Counsel for the second respondent-insurance company that the quantification made by the Tribunal is in accordance with law and no interference of this Court is warranted under Section 173 of the Act with regard to the same. It is also the submission of the learned Standing Counsel that the Tribunal awarded exorbitant rate of interest and the Tribunal should have granted interest @ 7.5% only but not 9%.

The Tribunal, as evident from the impugned award, fixed the amount of contribution of the deceased to his family as Rs.10,000/- p.a. and applied the multiplier '14' and arrived at

Rs.1,40,000/-(Rs.10,000/- X 14) towards loss of dependency. In this context, it may be appropriate to refer to the decision of the Honourable Apex Court in ***SARALA VERMA (SMT.) & OTHERS V. DELHI TRANSPORT CORPORATION & ANOTHER***[1], wherein the Honourable Apex Court, at paragraph No.19, indicated the reasonable multipliers to be applied.

In the instant case, the age of the deceased was 30 years by the time of his death. In view of ***Sarala Verma*** (first cited supra), the multiplier which needs to be adopted is '17'. Therefore towards loss of dependency if multiplier '17' is adopted the amount would come to Rs.1,70,000/- (Rs.10,000/- X 17). Therefore the said amount is payable to the claimants for the loss of dependency. Coming to the other heads, learned counsel for the claimants/appellants has placed before this Court 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. In the said judgment the Honourable Apex Court, at paragraph No.61 (viii), recorded the conclusions as under:

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

In the instant case, towards loss of consortium, the Tribunal fixed a sum of Rs.5000/- and Rs.4000/- towards funeral expenses and did not grant any amount towards loss of estate. Therefore, following the above said judgment, this Court is inclined to grant a sum of Rs.15,000/- towards loss of estate, Rs.40,000/- towards

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[1] (2009) 6 SCC 121

loss of consortium and Rs.15,000/- towards funeral expenses. In view of the above, the amounts payable to the claimants are as follows:

Amount towards loss of dependency: Rs.1,70,000/-

Amount towards loss of estate: Rs.15,000/-

Amount towards loss of consortium : Rs.40,000/-

Amount towards funeral expenses: Rs.15,000/-

However, having regard to the rate of interest prevailing, the rate of interest of 9%, awarded by the Court below, is hereby reduced to 7.5%.

For the aforesaid reasons, the appeal is allowed in part, enhancing the compensation from Rs.1,49,000/- to Rs.2,40,000/- with interest @ 7.5% p.a. from the date of the petition till the date of realization. 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

22nd November, 2017
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