HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

M.A.C.M.A.No.1036 of 2006

JUDGMENT:

This appeal is arising out of the decree and judgment dated 01.02.2006 passed in M.V.O.P.No.19 of 2003 by the Motor Vehicle Accidents Claims Tribunal-cum-I Additional District Judge, Sanga Reddy (for short 'the Tribunal).

The appellant is the National Insurance Company. Respondents are claimants-petitioners, who filed M.V.O.P.No.19 of 2003 under Section 166 of the Motor Vehicles Act, 1988, claiming compensation of Rs.10,00,000/- on account of the death of the deceased, A.Srinivas, in a motor vehicle accident.

The brief facts of the case are that, on 15.10.2002, when the deceased, Atnoore Srinivas, along with his friend proceeding on a scooter bearing No.AP10 N 6203 from Sangareddy towards Jogipet, the driver of the Tata truck lorry No.RJ 20G 3145 drove the vehicle at high speed in a rash and negligent manner and without observing the traffic rules, dashed the scooter, due to which, the deceased fell down and died on the spot. The legal heirs of the deceased filed the said O.P. claiming compensation of Rs.10.00 lakhs. The Tribunal on consideration of the evidence awarded compensation of Rs.6,22,000/-. Aggrieved by the said O.P., the appellant preferred this appeal.

Learned counsel for the appellant submitted that the compensation awarded by the Tribunal is highly excessive and the Tribunal has erred in applying second schedule for the purpose of multiplier.

Learned counsel for the respondents submitted that the deceased was aged 22 years and he was a skilled labour and therefore, the Tribunal has rightly taken the notional income of the deceased as Rs.4,500/- per month. It is further submitted that at the time of passing the judgment, the legal position was different. In the light of the decision rendered by the Apex Court in *Smt.Sarla Verma and others Vs. Delhi Transport Corporation and another*[1], the multiplier applicable to the age of the deceased is '18' and the amount to be deducted from his income towards personal expenditure would be 1/5th. The respondents have not filed any claim petition for enhancement of the compensation in the light of ***Sarla Verma***'s case and therefore, the order passed by the Tribunal may not require interference in this appeal.

At the outset, the contention of the appellant is that the Tribunal has applied second schedule of Motor Vehicles Act for taking the multiplier in assessing the quantum of compensation and the Tribunal has taken the income of the deceased as Rs.4,500/- per month without there being any proof of income. In the light of the decision rendered in the case of ***Sarla Verma***, there is a drastic change in the law and

[1] 2009 (6) SCC 121

since this appeal is arising now, the law as on today has to be made applicable to this case. As per ***Sarla Verma***'s case, the multiplier applicable to the age of the deceased is 18 and 1/5th has to be deducted from the income of the deceased towards his personal expenditure. Since ***Sarla Verma***'s case is not made applicable in this case and as the respondents have not filed any appeal for enhancement and in the light of the facts of this case, the award passed by the Tribunal does not require any interference. Therefore, the appeal is liable to be dismissed.

In the result, the appeal is dismissed confirming the award dated 01.02.2006 in M.V.O.P.No.19 of 2003 passed by the Tribunal. The appellant is directed to deposit the amount within one month from the date of receipt of a copy of this order. On such deposit, the respondents are permitted to withdraw the entire amount as apportioned by the Tribunal. No costs.

The Miscellaneous Petitions, if any, pending shall stand closed.

GUDISEVA SHYAM PRASAD,J

Date : 27.10.2017
ssp