

THE HON'BLE SRI JUSTICE M.S.K. JAISWAL

M.A.C.M.A.No.1355 of 2010

JUDGMENT

The appellants/claimants preferred this appeal against the order and decree dated 05.03.2010 passed in O.P.No.2973 of 2008 by the Chief Judge, Motor Accidents Claims Tribunal, City Civil Courts, Hyderabad.

2. The facts, in brief, are that on 25.10.2008 at about 5.00 AM., near Coca-Coal company, Bachupally, Ranga Reddy District, while the deceased Swamy Naidu was getting down from the APSRTC bus bearing No.AP 10Z 8193 at Coca-Cola bus stop, the driver moved the bus suddenly at high speed in a rash and negligent manner, due to which, the deceased fell down from the bus and sustained fatal injuries. Immediately, he was shifted to Mamatha Hospital, Kukatpally, where the doctors declared him dead. The deceased was aged about 46 years and was hale and healthy at the time of accident. The deceased was earning a salary of Rs.7,000/- per month while working as Tablet Inspector in Arabindo Pharmacy Company, Bachupally. Due to sudden death of deceased, the claimants being legal representatives are deprived of his earnings. Hence, they filed the claim petition claiming compensation of Rs.6,00,000/- under various heads against respondents 1 and 2 being owners of crime vehicle.

3. R1 and R2 remained *ex parte* before the Tribunal.

4. Since the respondents have not denied the petition averments by filing counter, the Tribunal framed a point for consideration. During enquiry, P.Ws.1 and 2 were examined and Exs.A1 to A3 were marked on behalf of claimants.

5. After considering the entire evidence on record, the Tribunal awarded compensation of Rs.3,42,000/- to the claimants with proportionate costs and interest @ 9% per annum from the date of petition till the date of realization.

6. Learned counsel for appellants/claimants submits that though the deceased was earning a sum of Rs.7,000/-per month as Tablet Inspector at the time of accident, the Tribunal erred in taking his monthly income at Rs.3,000/- per month and awarded lesser compensation under the head of loss of income.

7. Admittedly, the deceased was an educated person and was earning a sum of Rs.7,000/-per month while working as Tablet Inspector in Arabindo Pharmacy Company though on contract basis. The Tribunal has taken into consideration the income of the deceased notionally at Rs.3,000/- per month and applying the multiplier at '13', it awarded compensation of Rs.3,12,000/- towards loss of dependency. Ex.A6 is the identity card issued by the Contractor in the name of petitioner with Employment Code Number. Though the claimants have not produced any certificate showing that the deceased was earning a sum of Rs.7,000/- per month, the deceased was not a casual labour as per Ex.A6. Therefore, his monthly come can be taken notionally at Rs.4,500/- per month

instead of Rs.3,000/- as taken by the Tribunal. Admittedly, the deceased was aged about 48 years as per Ex.A4-postmortem report and was maintaining his wife and two sons at the time of accident. Therefore, I feel that it is just and reasonable to take his monthly income at Rs.4,500/-per month and annually at Rs.54,000/-. If 1/3rd is deducted towards his personal expenses, it comes to Rs.36,000/- and after applying multiplier '13', the loss of earnings would come to Rs.4,68,000/-. The compensation awarded by Tribunal under the other heads shall remain unaltered. Thus, the compensation awarded by Tribunal is enhanced from Rs.3,42,000/- to Rs.4,98,000/-.

8. In the result, the appeal is allowed in part, modifying the impugned order passed by Tribunal by enhancing the compensation from Rs.3,42,000/- to Rs.4,98,000/- and granting interest at 7.5% per annum on the enhanced compensation i.e., Rs.4,68,000/- from the date of petition till the date of deposit. Respondents 1 and 2 are directed to deposit the enhanced compensation within a period of two months from today. On such deposit, the first appellant being wife is permitted to withdraw the same without furnishing any security since the 2nd and 3rd claimants, who are the sons of deceased, are majors. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this appeal shall stand closed.

M.S.K. JAISWAL, J.

28th August, 2017
sj