HONOURABLE SRI JUSTICE G. SHYAM PRASAD

M.A.C.M.A.No. 517 OF 2006

JUDGMENT:

1. This Motor Accident Civil Miscellaneous Appeal is arising out of the order dated 19-11-2005 passed in Original Petition No.671 of 2001 on the file of the Chairman, Motor Vehicle Accident Claims Tribunal-cum-I Additional Chief Judge, Hyderabad. (for short, 'The Tribunal').

2. The 1st appellant is the father of the deceased and 2nd appellant is the mother of the deceased in the Motor Vehicle Accident occurred on 11-9-1999. They filed O.P.No.671 of 2001 against the respondents claiming compensation of Rs.3,00,000/- on account of the death of their son in the accident.

3. The tribunal on consideration of the evidence awarded compensation of Rs.2,00,000/- with subsequent interest @ 6% p.a.,

4. Being aggrieved by the quantum of compensation, this appeal has been preferred by the appellants for enhancement of compensation.

5. The point for consideration in this matter is whether the appellants are entitled for enhancement of compensation.

6. The brief facts of the case are that on 11.09.1999, while the deceased, who is the son of the appellants, was going to Godavari Khani in Maruti van bearing No. AP 9 4803, and when it reached the outskirts of Turkapally Village on Rajiv Gandhi Road, a jeep bearing No.AP9S 8640 overtook the car bearing No.AP11A 6666 coming from the opposite direction in a rash and negligent manner and hit the maruti van. In the said accident, the deceased succumbed to the injuries at the CDR Hospital.

7. The respondents 1 and 3 remained ex parte. R.2 filed counter denying the liability and the same was adopted by R.4.

8. Heard the arguments of learned counsel for the appellants Sri K. Jawahar and the learned counsel for the 2nd respondent Sri P. Harinath Gupta and 4th respondent Sri Kota Subbarao.

9. Learned counsel for the appellants submits that the correct income of the deceased was not taken into consideration by the tribunal in awarding compensation. The deceased was 27 years old and he was working as an employee and he was earning Rs.3,000/- per month by the date of the accident. The tribunal has taken only Rs.1500/- per month as notional income.

10. Placing reliance on the following decisions, the notional income of the deceased is taken into consideration as Rs.3,000/- per month and those decisions are as follows:

1) *Ramesh Singh v. Satbir Singh*[1]

2) *New India Assurance Company Ltd. v. Smt. Shanti Pathak*[2]

3) Oriental Insurance Co. Ltd. v. Syed Ibrahim[3]

4) New India Assurance Co. Ltd., v. Kalpana (Smt)[4]

5) Sri Appayachari v. K. Vadivel and the New India Assurance Company Ltd., rep. by its Manager[5]

6) United India Insurance Co. Ltd. v. Shri Buro Mahara[6]

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[1] MANU/SC/7089/2008
[2] MANU/SC/7776/2007
[3] MANU/SC/7915/2007
[4] (2007) 3 SCC 538
[5] MANU/KA/3721/2013
[6] MANU/WB/0139/2015

11. The tribunal held that there is no proof of actual income of the deceased, and therefore, the notional income of the deceased, as per II Schedule of Motor Vehicles Act was taken as Rs.1500/- per month. The contention of the appellants is that the notional income of Rs.3,000/- per month has to be taken even as per Minimum Wages Act.

12. The notional income should be at least the minimum wage of a labourer working in an unorganized sector. According to the Minimum Wages Act, a labourer gets Rs.3,000/- per month. The tribunal has taken only Rs.1500/- per month in this case. Time and again, in catena of decisions, the Hon'ble Apex Court and this court held that the notional income has to be taken into consideration as per the Minimum Wages Act.

13. The deceased was 27 years old by the date of accident. He was working as a private employee in Country Club, Hyderabad. His notional income would be not less than Rs.3,000/- per month as he is working in the Country Club in the a Metropolitan City like Hyderabad. The lowest age of the parents of the deceased is the age of the mother which is 49 years and therefore, the tribunal has applied the multiplier of 45 to 50 years as '12'. As per the decision rendered in *SMT. SARLA VERMA AND OTHERS Vs. DELHI TRANSPORT CORPORATION AND ANOTHER*[7], the multiplier for the age between 46 and 50 years has to be taken into consideration as '11'.

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[7] (2009) 6 SCC 121

14. The deceased was aged 27 years working as a private employee in Country Club at Hyderabad by the date of his death. There is no evidence on record to show that he was married. Since the deceased was a bachelor, 50% of his income is to be deducted towards his personal expenditure as per the decision rendered in *SMT. SARLA VERMA* (7 cited).

15. Learned counsel for the appellants cited decisions referred above in which it was held that when there is a conflict as to the application of multiplier with regard to the age of victim as on the date of his death, the average age of his parents to be taken for assessing compensation. It was held that loss of dependency can be assessed with reference to the year of expected longevity of parents. Hence, the average age of parents is to be taken into consideration as per the decision of the High Court of Calcutta in United India Insurance Co. Ltd. v. Shri Buro Mahara[8].

16. The average age of the deceased parents comes to 52 years six months, and the multiplier as per *SMT. SARLA VERMA* (7 cited) is '11'.

17. The annual income of the deceased was Rs.36,000/-. After deduction of 50% towards his personal expenditure, the amount of contribution to the family would be Rs.18,000/-. The amount of compensation under the head of the loss of dependency comes to Rs.1,98,000/-. (Rs.18,000/- x '11').

18. The enhanced compensation, if any, is shown in the tabular form below:

[8] MANU/WB/0139/2015

Sl.No.	Name of Head	Compensation Awarded by Tribunal	Compensation Awarded by this Court
01.	Loss of dependency	Rs.1,20,000/-	Rs.1,98,000/-
02.	Loss of Estate	Rs.15,000/-	Rs.25,000/-
03.	Transportation and funeral expenses	Rs.5,000/-	Rs.10,000/-
04.	Loss of love and affection and support in old age	Rs.10,000/-	Rs.10,000/-
05.	Medical expenses	Rs.50,000/-	Rs.50,000/-
	TOTAL	Rs.2,00,000/-	Rs.2,93,000/-

19. In the result, the appeal is partly allowed and compensation of Rs.2,00,000/- awarded by the tribunal is enhanced Rs.2,93,000/- with proportionate costs. The enhanced amount shall carry interest at the rate of 7.5% per annum from the date of the petition till realization. The respondents are directed to deposit the amount within two months from the date of receipt of a copy of this judgment and on such deposit, the appellants are permitted to withdraw half of the amount after expiry of appeal time.

20. As a sequel to the disposal of this revision, the Miscellaneous Petitions, if any, pending, shall stand dismissed.

JUSTICE G. SHYAM PRASAD

Dated 18-01-2017.
Dvs.

HONOURABLE SRI JUSTICE G. SHYAM PRASAD

M.A.C.M.A.No. 517 OF 2006

Dated 18-01-2017.

Dvs