HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL MISCELLANEOUS APPEAL No.4777 OF 2004

JUDGMENT:

The present appeal is preferred by the petitioners in O.P. No.645 of 2000, on the file of the Chairman, Motor Accidents Claims Tribunal - cum - I Additional District Judge, Nizamabad (for short 'Tribunal') under Section 173 of the Motor Vehicles Act, 1988 (for short 'Act'), on the ground that the amount of Rs.2,36,000/- awarded by the Tribunal was very meager as claim itself was laid under Section 166 of the Act for grant of Rs.5,00,000/- as compensation for the death of one Jadhav Prabhakar, who is husband of appellant No.1 and father of appellant Nos.2 to 4, who are, of course, minors by the date of filing the claim petition.

2. The appellants herein are petitioners in the aforesaid O.P., while respondent Nos.1 and 2 herein, who are Managing Director and Depot Manager of erstwhile Andhra Pradesh State Road Transport Corporation, respectively, are arrayed as such.

3. For the sake of convenience, the parties hereinafter referred to as they were originally arrayed in the aforesaid O.P.

4. Heard Sri P. Radhive Reddy, learned counsel for the appellants. Though, the appeal is dismissed against respondent No.2, it is of no consequence as respondent No.2 is no other than its Depot Manager.

5. Now, the only short question that arises for consideration is, whether the amount awarded by the Tribunal is just and adequate?

6. So far as the fact-situation leading to the death of the deceased is concerned, there is no dispute between the parties. The Tribunal has overlooked the evidence of PW.3, who is said to be the colleague of the deceased, who spoke that per day Rs.200/- was being paid for a Fitter in a rice mill, and the deceased was working as a Fitter in J.J. Manju Bhai Rice Mill and he was also working as a Fitter and getting Rs.200/- per day. This was not agreed by the Tribunal and the Tribunal has fixed the income at Rs.1500/- per month, deducted 1/3rd thereof towards personal expenses and worked out the dependency at Rs.1000/- per month or Rs.12,000/- per annum, applied multiplier factor '18' taking the age of the deceased as 30 years as Medical Certificate would show about 30 years as the age of the deceased, arrived at Rs.2,16,000/- towards loss of dependency. Besides it granted Rs.5,000/- towards loss of estate, Rs.10,000/- towards loss of consortium to petitioner No.1 and Rs.5,000/- towards transportation of dead body, making a total of Rs.2,36,000/-, and apportioned it amongst the petitioners. The Tribunal also awarded the interest at 9% per annum thereon.

7. The rulings rendered by the Hon'ble Supreme court for the accident that have taken place subsequent to 2000 year, would be given indication that even a labourer or coolie, who dies in an

accident, would be earning not less than Rs.30,000/- per annum, and one of the rulings it was assessed at Rs.3,000/- as the monthly income. Be that as it may, the amount of Rs.30,000/- as the income per annum can be taken in the present case as there is no material to disprove that the deceased was working as Fitter, since his occupation is shown as fitter against column No.2 relating to the particulars of the deceased in inquest *panchanama* which is marked as Ex.A-4. In view of the law declared by the Hon'ble Supreme Court in **Sarla Verma v. Delhi Transport Corporation**[1] since the dependants are numbering four, 1/4th deduction towards personal living expenses of the deceased is permissible which works out to Rs.7,500/- and when deducted, his contribution works out to Rs.22,500/-. The Tribunal has taken multiplier factor '18'. When the medical report shows that he was about 30 years old, it indicates completion of 30 years, more so, when petitioner No.2 even by the date of claim petition was shown as 8 years old. Therefore, the relevant multiplier factor is '16', and when the same is applied, the loss of dependency would work out to Rs.3,60,000/-. The petitioners are also entitled to future prospects at 50% additionally as per the decision of the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**[2], which works out to Rs.1,80,000/-. Thus, towards loss of dependency including future prospects, the petitioners would become entitle to Rs.5,40,000/-

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[1]. 2009 ACJ 1298
[2]. 2013 ACJ 1403

(Rs.3,60,000/- + Rs.1,80,000/-). Besides the same, the petitioners are also entitled to Rs.50,000/- towards conventional sums as per the decision of the Hon'ble Supreme Court in **Ramilaben Chinubhai Parmar and others v. National Insurance Company and others**[3]. Thus, in all, the petitioners are entitled to Rs.5,90,000/-. The amount determined now exceeds the claim made by the petitioners, but in view of the law declared by the Hon'ble Supreme Court in **Nagappa v. Gurudayal Singh and others**[4], **Sri Laxman @ Laxman Mourya v. Divisional Manager, Oriental Insurance Company Limited**[5] and **Rajesh**[2], when the amount determined towards fair compensation if exceeds the claim made by the petitioners, the amount determined is to be awarded.

8. Concerning rate of interest, the Tribunal awarded at 9% per annum on Rs.2,36,000/- the same is maintained, but on the enhanced amount of Rs.3,54,000/-, interest at 7.5% per annum is awarded in view of the decision rendered by the Hon'ble Supreme Court in **Rajesh**[2].

9. In the result, the appeal is allowed, and the order and decree, dated 23-08-2004, in O.P. No.645 of 2000, passed by the Tribunal, are modified, enhancing the compensation to Rs.5,90,000/- (Rupees five lakhs and ninety thousand) from Rs.2,36,000/- with interest at the rate

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[3]. 2014 ACJ 1430
[4] AIR 2003 SC 674
[5] 2012 ACJ 191 (SC)

of 9% per annum on the amount of Rs.2,36,000/- granted by the Tribunal and at the rate of 7.5% per annum on the enhanced amount of Rs.3,54,000/- (Rupees three lakhs and fifty four thousand) from the date of petition till realization, and affirming the order in all other respects. The enhanced amount shall be apportioned among the petitioners in the same proportion in which the original compensation amount was directed to be apportioned and disbursed by the Tribunal. The appellants - petitioners shall pay Court fee on the excess amount of Rs.90,000/- (Rupees ninety thousand) within three months from the date of receipt of a copy of the order. 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 29, 2017.
Mgr