HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL MISCELLANEOUS APPEAL No.4480 OF 2004

JUDGMENT:

The present Civil Miscellaneous Appeal under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act'), is preferred by the claimants seeking enhancement of compensation on the ground that only Rs.76,500/- is granted by the order and the decree dated 23.07.2004 in M.V.O.P. No.460 of 2000, as against the claim of Rs.4,00,000/- laid Section 166 of the Act, for the death of their son viz., Abdul Sardar, who was working as a 'tinker', aged 19 years, on the date of accident.

2. However, as regards accident, there is no dispute between the parties, as such, there is o need to refer to the facts once again or the terms and conditions of the policy.

3. The Tribunal has analysed the income of the deceased at Rs.60/- per day or Rs.1,800/- per month and arrived at Rs.21,600/- towards annual income, deducted 1/3rd thereof and taken Rs.14,400/- as contribution to the claimants and taken the age of the younger parent of the deceased i.e., his mother's age who was 55 years at the relevant time as per the cause title, based on the decision of this Court in **Bhagwandas v. Mohd. Arif**[1], applied multiplier factor '4.27' and arrived at Rs.61,500/-. Besides the same, Rs.15,000/- was granted towards loss of estate and thus, granted a total sum of Rs.76,500/-

[1]. 1987 ACJ 1052

towards compensation with interest at 9% per annum from the date of petition till realization with proportionate costs.

4. Heard Sri V. Subrahmanyam, learned counsel for the appellants - claimants, and Sri B. Devanand, learned counsel for respondent No.3 viz., The New India Assurance Company Limited, Gudivada, Krishna District - insurer.

5. Despite service of notice, none appears for respondent No.1, driver of the lorry. However, notice was not served on respondent No.2, owner of the lorry that involved in the accident, but, in view of the decision of this Court in **Meka Chakra Rao v. Yelubandi Babu Rao @ Reddemma and others**[2]**,** it has no significance to decide the controversy involved herein.

6. Perused the order and decree under challenge and the material on record.

7. The Tribunal, of course, applied multiplier factor then in vogue based on the decision of this Court referred to above. But, in view of the ruling of the Hon'ble Supreme Court in **Sarla Verma v. Delhi Transport Corporation**[3]**,** 50% deduction is permissible as against 1/3rd towards personal expenses and multiplier factor '18' is applicable in view of the decisions rendered by the Hon'ble Supreme Court in **Amrit Bhanu Shali and others v. National Insurance**

[2] 2001 (1) ALT 495 (D.B.)
3 (2009) 6 SCC 121

Company Limited[4] and **Munnalal Jain and another v. Vipin Kumar Sharma**[5]**.** Thus, when yearly earnings of the deceased i.e., Rs.21,600/- (Rs.1,800/- x 12), is reduced to 50%, it works out to Rs.10,800/-. When multiplier '18' is applied, it works out to Rs.1,94,400/- (Rs.10,800/- x 18) . This apart, 50% thereof has to be awarded towards future prospects and the same works out to Rs.97,200/- (Rs.1,94,400/- x 50%). Thus, the contribution including future prospects would work out to Rs.2,91,600/-. The amount of Rs.15,000/- granted by the Tribunal towards conventional sum is maintained.

8. Thus, the claimants are entitled to a total compensation of Rs.3,06,600/- (Rupees three lakhs six thousand and six hundred) and the same is accordingly granted as against Rs.76,500/- awarded by the Tribunal. However, interest at 9% per annum on the compensation of Rs.76,500/- granted by the Tribunal is maintained. But, on the enhanced compensation of Rs.2,30,100/-, they are entitled to interest at 7.5% per annum, from the date of petition till realisation as per the decision of the Hon'ble Apex Court in **Rajesh and others v. Rajbir Singh and others**[6]**.** The entire compensation shall be apportioned between the claimants equally as directed by the Tribunal.

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4 2012 AIR SCW 3901
5 (2015) 6 SCC 347
6 2013ACJ1403 = 2013(4)ALT35

9. Accordingly, the Civil Miscellaneous Appeal is allowed in part modifying the order and decree under challenge by enhancing the compensation, as indicated above. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Applications, if any, pending in the appeal stand disposed of.

August 7, 2017. **A. SHANKAR NARAYANA, J**
PV