

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

M.A.C.M.A. No. 221 of 2006

JUDGMENT:

This appeal is arising out of the Judgment and Decree dated 09.05.2005 passed in O.P.No.2080 of 2002 by the Chairman, Motor Accident Claims Tribunal (District Judge), Nizamabad. The appellant herein is the 2nd respondent, and the respondents 1 to 4 herein are the petitioners in the aforestated original petition before the Tribunal.

2. Brief facts of the case are that the petitioners 1 to 4 have filed a claim petition under Section 166 of the Motor Vehicles Act, claiming compensation of Rs.18,00,000/- on account of the death of the deceased in a motor vehicle accident, against respondents 1 and 2, the owner and insurer of the tipper lorry bearing No.ATT-3222. On 20.10.2002, the deceased Lakkarsu Shekar was driving the scooter bearing No.AP 10K 3376 from Manik Bhandar towards Mubaraknagar side on National Highway No.16, at about 4.30 P.M., when he reached Manik Bhandar Village shivar, a tipper lorry bearing No.ATT-3222 driven by its driver at a high speed in a rash and negligent manner came in opposite direction and dashed against the scooter. The deceased fell down from the scooter and received injuries to his head. He has received fracture

to his skull, crush injuries and other multiple fractures. He was treated in Government Hospital, Nizamabad, and while undergoing treatment, he succumbed to injuries on the same day. The deceased was an agriculturist aged about 30 years, and he was earning Rs.20,000/- per annum.

3. Respondent No.1 remained ex parte, and respondent No.2-insurer filed written statement denying its liability and also contending that the claim is excessive and arbitrary, denying its liability that there is no rash and negligence on the part of the driver of the crime vehicle and that the driver of the crime vehicle was not having valid driving licence by the date of accident.

4. The Tribunal, on appreciation of the evidence of PWs.1 to 3, documents Exs.A1 to A7, and Ex.B1, has awarded a compensation of Rs.8,33,500/- with interest at 7.5% per annum. Challenging the quantum of compensation awarded by the Tribunal, the insurance company has filed this appeal.

5. Heard the arguments of learned counsel for the appellant-insurance company. Notices have been served to the respondents and Mr. Rajeev Reddy, learned counsel entered appearance on behalf of the respondents-claimants.

6. Learned counsel for the insurance company mainly contended that the Tribunal has taken the income of the deceased at Rs.6,000/- per month without any basis, when the petitioners have not filed any documents of income tax returns or any proof for the income of the deceased that he was earning Rs.20,000/- per month on agriculture. It is further submitted that the age of deceased was 33 years old by the date of accident and, therefore, the appropriate multiplier is '16' as per the decision of the Hon'ble Supreme Court in **Sarla Varma v. Delhi Transport Corporation**¹, but the Tribunal had erroneously applied multiplier '17'.

7. On consideration of the arguments advanced by the learned counsel for the insurance company is concerned, the Tribunal has properly appreciated the evidence on record and rightly assessed the notional income of the deceased as Rs.6,000/- per month. Therefore, the contribution of the deceased to his family would be Rs.4,000/- per month.

8. As far as the multiplier is concerned, the Tribunal has taken the multiplier 17 instead of 16. As per **Sarla Varma**, '16' is the correct multiplier applicable to the age of the deceased.

¹ (2009) 6 SCC 121

9. Therefore, on application of multiplier '16', the loss of dependency on account of the death of deceased would come to Rs.16x12x4000 = Rs.7,68,000/-. The Tribunal awarded Rs.15,000/- towards loss of consortium, and Rs.2,500/- towards funeral expenses, and the same does not require any interference. Therefore, the total compensation on account of the death of the deceased would come to Rs.7,68,000 + Rs.15,000 + Rs.2,500 = Rs.7,85,500/-.

10. **IN THE RESULT**, the appeal is partly allowed, by modifying the Award passed by the Tribunal, by reducing the compensation from Rs.8,33,500/- to Rs.7,85,500/- with interest at 7.5% per annum from the date of petition till realisation. The appellant-insurance company is directed to deposit the compensation amount within one month from the date of receipt of a copy of this order. On such deposit, the claimants are permitted to withdraw the amounts as per the ratio fixed by the Tribunal. No costs. Miscellaneous petitions, if any pending, shall stand closed.

GUDISEVA SHYAM PRASAD, J

23rd October, 2017

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