THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

MACMA.No. 216 of 2007

JUDGMENT:

This appeal is filed by the appellants/claimants dissatisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal-cum-District Judge, Khammam in O.P.No.819 of 2005, dated 07.11.2006, and seeking enhancement of the compensation awarded by the Tribunal.

2. The learned counsel for the appellants contended that the Tribunal has granted a compensation of Rs.1,96,000/- against the claim of Rs.4,00,000/- on account of the death of the son of the claimants, by name Kasara Srinivasa Reddy, who died in the accident that occurred on 03.01.2005 at about 8.15 a.m., near Gollagudem village. The Tribunal has taken Rs.1500/- as monthly earnings of the deceased. The Tribunal has not granted any compensation for the loss of love and affection, loss of estate, and further, granted a sum of Rs.2,000/- only towards funeral expenses, and ultimately prayed for enhancement of the said compensation awarded by the Tribunal.

3. The learned counsel for 3rd Respondent/Insurance Company contended that the deceased was a bachelor, and therefore, the Tribunal is required to deduct half of his earnings towards personal expenses, but only deducted 1/3rd, which is erroneous. The

learned counsel further contended that the Tribunal has granted adequate and just compensation on all the scores, and there is nothing to interfere in the order under appeal.

4. Heard the learned counsel for the appellants/claimants, the learned counsel for the 3rd Respondent/Insurer, and perused the material on record.

5. There is ample evidence on record to establish that the deceased - Kasara Srinivasa Reddy died due to the rash and negligent driving of the crime vehicle. The Tribunal has fixed the compensation on the basis of evidence of PWs.1 and 2, and Exs.A-1 to A-6, which are all official documents, and Ex.A7 – Salary Certificate of the deceased. While determining the quantum of compensation, the Tribunal has elaborately dealt with the oral and documentary evidence on record and concluded that the deceased died due to the rash and negligence of the driver of the crime vehicle. Therefore, no other findings are required to be recorded on that aspect.

6. The Tribunal, basing on the evidence on record, held that the crime vehicle was insured with the Insurer/Respondent No.3 under the policy, Ex.B.1. There was no violation of terms and conditions of the said policy. There is no evidence to rebut the same. Therefore, the findings of the Tribunal in this regard are liable to be confirmed.

7. Now, the point for consideration in the appeal is whether the appellants are entitled for enhancement of the compensation as contended.

8. It is evident from the record that the Tribunal had granted Rs.2,000/- towards funeral expenses and has not granted any amount for the loss of love and affection. Admittedly, there is ample evidence that the deceased was the son of the appellants and he died at an age of 20 years. Considering the same, an amount of Rs.25,000/- can be granted towards loss of love and affection in favour of the appellants. Further, the amount granted towards funeral expenses can be enhanced to Rs.5,000/- from Rs.2,000/-, which was granted by the Tribunal. It is evident from the record that Ex.A-7 salary certificate and the evidence of PW-2 that the deceased was working in a private limited organization and was drawing a salary of Rs.1,500/- per month and another Rs.1,500/- towards conveyance. The Tribunal, while determining the loss of earnings, has taken only salary of the deceased at Rs.1500/- per month and applied 'Multiplier-16' for the age group of 36 years i.e., the mother's age of the deceased, and further deducted 1/3rd of such income towards personal expenses of the deceased. In Munnalal Jain and others v. Vipin Kumar Sharma and others [2015(6) SCC 347], the Hon'ble Supreme Court had taken into consideration the age of the unmarried deceased as 20 years and adopted multiplier '18'. Even that is adopted in this

case, the compensation payable towards loss of dependency wound increase. Therefore, the amount awarded i.e., Rs.1,92,000/- towards loss of dependency is maintained. Apart from that, in the instant case, the appellants are also entitled for a sum of Rs.20,000/- towards loss of estate. In all, the appellants are entitled for of Rs.48,000/- as determined above, in addition to the compensation amount of Rs.1,96,000/- granted by the Tribunal.

9. It is also relevant to mention that both the appellants are equally entitled in the enhanced compensation. The enhanced compensation can carry interest thereon at 7.5% per annum from the date of filing the petition till the date of realization. The other conditions imposed by the Tribunal are unchanged.

10. In the result, this appeal is allowed in part, enhancing the amount of compensation granted by the Tribunal from Rs.1,96,000/- to Rs.2,44,000/- with interest at 7.5% per annum from the date of petition till realisation. The appellants are entitled to share the enhanced compensation amount equally and also entitled to withdraw their entire shares. The other terms of the order under challenge remained unchanged. As a sequel, the miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

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(DR. SHAMEEM AKTHER, J)

July 21, 2017
Kv

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