

HON'BLE SRI JUSTICE M.S.K.JAI SWAL

M.A.C.M.A.No.1236 of 2010

JUDGMENT:

The appellants are the claimants in M.V.O.P.No.964 of 2008 on the file of the learned Chairman, Motor Accident Claims Tribunal-cum-Principal District Judge, Warangal (for short "the Tribunal). The claimants preferred the MVOP claiming compensation of Rs.3,00,000/- for the death of E.Iylamma, aged 55 years, who was mother of claimants Nos.1 to 3 and the wife of claimant No.4. The said Iylamma died in an accident which is said to have taken place on 14.06.2008 at about 5 p.m involving the motorcycle bearing registration No.AP36G-135, owned by the 1st respondent and insured by the 2nd respondent. The Tribunal, by award dated 11.03.2010, awarded a sum of Rs.1,49,000/- by taking into consideration the notional income of the deceased at Rs.3,000/-. Aggrieved thereby, the present appeal is preferred.

The learned counsel for the appellants submits that the Tribunal erred in taking into consideration the notional income of the deceased at Rs.3,000/- per month and having taken that amount, the Tribunal further erred in deducting half of it towards her personal living expenses as against the required deduction of 1/3rd in view of the fact that the deceased left behind the husband and three children. The learned counsel further submits that the Tribunal grossly erred in awarding amounts under different conventional heads, and therefore, they need to be enhanced.

The learned counsel for the insurance company submits that the amounts awarded by the Tribunal towards compensation are just and reasonable and they do not warrant any interference and the appeal is liable to be dismissed.

Heard both sides and perused the material on record.

The fact that the accident took place on the date, time and place as mentioned is not disputed. So also involving the motorcycle, which was owned by the 1st respondent and insured by the 2nd respondent, is also not in dispute. Similarly, the fact that the Tribunal has conclusively held that the accident was due to rash and negligent act on the part of the driver of the motorcycle is not challenged. Therefore, the findings of the Tribunal to that extent cannot be interfered with.

The main contention of the appellants is that the quantum of compensation awarded by the Tribunal is grossly inadequate. The deceased was a woman, aged 55 years, she left behind her husband and three grown up children. In the absence of there being any evidence about the income of the deceased, who was an agriculturist and house wife, the Tribunal has rightly taken the notional income at Rs.3,000/-. However, having done so, the Tribunal erred in deducting half of it towards personal living expenses as against the well settled principle, according to which, in case of a person behind a family, 1/3rd thereof should be deducted.

That apart, the Tribunal awarded amounts under conventional heads, which are slightly inadequate.

Therefore, taking into consideration the above aspects, the compensation awarded by the Tribunal needs to be reconsidered as under:

Rs.3,000/- x 12 x 7	=	Rs.2,52,000/-
(-) 1/3 rd	=	Rs. 84,000/-

		Rs.1,68,000/-
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Therefore, the claimants are entitled to a sum of Rs.1,68,000/- towards loss of dependency.

In addition to the above, the claimants are entitled to a sum of Rs.10,000/- towards loss of consortium, Rs.10,000/- towards love and

affection, Rs.5,000/- towards funeral expenses and Rs.7,000/- towards loss of estate. In all, the claimants are entitled to compensation of Rs.2,00,000/- which is just and reasonable.

The Tribunal also erred in granting interest @6%, which should be @7.5% p.a.

In the result, the MACMA is allowed in part, enhancing the compensation from Rs.1,49,000/- to Rs.2,00,000/- to the claimants together with interest at 7.5% per annum from the date of petition till the date of realization. With regard to apportionment, claimants Nos.1 to 3, who are major sons of the deceased, are each entitled to 10% of the compensation and the remaining 70% together with proportionate costs should be paid to the 4th respondent, who is the husband of the deceased. The claimants are entitled to withdraw the amount, as per apportionment, as and when deposited, without furnishing any security. The 2nd respondent-insurance company shall deposit the compensation amount together with interest and costs within a period of two months from today. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed in consequence.

M.S.K.JAI SWAL,J

Date: 22.06.2017
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