

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL MISCELLANEOUS APPEAL No.1261 OF 2004

JUDGMENT:

The present Civil Miscellaneous Appeal is preferred by the appellant under Section 173 of the Motor Vehicles Act, 1988 (for short 'Act'), challenging the order and decree, dated 06.12.2003, in M.V.O.P. No.479 of 1998 on the file of the Chairman, Motor Accidents Claims Tribunal - cum - I Additional District Judge, Chittoor District, Andhra Pradesh State (for short 'Tribunal') on the ground that a meager compensation of Rs.82,000/- was awarded as against the claim of Rs.3,00,000/-.

2. The appellant herein is the petitioner in the aforesaid MVOP, while respondent Nos.1 and 2, who are owner and insurer of Bus bearing registration No.AP 03/U 1156 are respondents as such.

3. For the sake of convenience, the parties are hereinafter referred to as they were arrayed in MVOP.

4. The petitioner is mother of deceased - P. Rajasekhar alias Raja, who died in a road accident. She laid a claim under Section 166 of the Act for grant of Rs.3,00,000/- as compensation on the ground that the deceased was earning Rs.100/- per day as an auto-rickshaw driver. It was resisted by respondent No.2 - M/s. United India

Insurance Company Limited. Before the Tribunal, respondent No.1, owner of the vehicle, remained *ex parte*.

5. The Tribunal having framed four issues and examining PWs.1 and 2 and marking Exs.A-1 to A-5 on behalf of the petitioner, and Ex.B-1 on behalf of the insurer, while accepting the income at Rs.100/-, but reckoned for only 20 days in a month and, thus, arrived at Rs.2,000/- per month or Rs.24,000/- per annum; deducted 1/3rd thereof and taken Rs.16,000/- towards contribution; applying multiplier factor '5' taking the age of the petitioner as 60 years keeping in view, that 65 would be the average age of normal expectation of life, arrived at Rs.80,000/-, besides granting Rs.2,000/- towards funeral expenses and, thus, a total of Rs.82,000/- was granted with interest at 9% per annum thereon. Of course, nothing can be commented against the Tribunal for the reason by then the table formulated in **Sarla Verma v. Delhi Transport Corporation**,¹ was not available except the table in B-schedule to Section 163-A of the Act, but for the reasons best known to the Tribunal, it did not borrow anything from B-schedule appended to Section 163-A of the Act.

6. Be that as it may, since the appeal is still pending, in case 50% of earnings are deducted as the deceased died in unmarried status, taking the income per day at Rs.100/- or per month Rs.3,000/- or Rs.36,000/- per annum, still, put together the petitioner would be

¹. 2009 ACJ 1298

entitled to the amount of Rs.3,000/- somewhere nearby or slightly more than what is claimed. If the structural formula is adopted by adopting multiplier factor '18' applicable to the deceased as per the decision of the Hon'ble Supreme Court in **Sarla Verma's Case** (Supra), besides conventional sums, the fair compensation to which the petitioner is entitled would be around the claim of Rs.3,00,000/-. Hence, the same is acceded to.

7. Sri Vutla Srinivasa Rao, learned standing counsel for respondent No.2 - Insurer would submit that the interest granted by the Tribunal is on higher side. It is true that in view of the decision of the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**², awarding rate of interest at 7.5% per annum would be reasonable. Therefore, while confirming the rate of interest awarded by the Tribunal at 9% per annum on Rs.82,000/-, interest at 7.5% per annum is awarded on the enhanced amount of Rs.2,18,000/-.

8. The appeal is accordingly, allowed and the order and decree, dated 06.12.2003, passed by the Tribunal in M.V.O.P. No.479 of 1998 are modified enhancing the compensation to Rs.3,00,000/- from Rs.82,000/- with interest at 9% per annum on the amount of Rs.82,000/- granted by the Tribunal and at 7.5% per annum on the enhanced amount of Rs.2,18,000/- from the date of petition till date of deposit. There shall be no order as to costs.

². 2013 ACJ 1403

As a sequel thereto, miscellaneous applications, if any, pending in the appeal, stand disposed of.

A. SHANKAR NARAYANA, J

August 11, 2017.

Mgr

