THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

Civil Miscellaneous Appeal No.3859 OF 2004

JUDGMENT:

The present Civil Miscellaneous Appeal is preferred under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act') requesting to grant balance amount of Rs.2,84,000/- as the Tribunal awarded only Rs.2,16,000/- as against the claim of Rs.5,00,000/- laid under Section 166 of the Act.

2. By order dated 28.07.2004 in O.P. No.959 of 2001, the Chairman, Motor Accidents Claims Tribunal-cum- I-Additional District Judge, Khammam (for short, 'the Tribunal'), having taken monthly income of Rs.1,800/- by discarding the stand of the petitioners-claimants that the deceased was earning Rs.5,000/- per month, working in Pharmaceuticals Limited, as no proof was put forth to substantiate it, deducted one-third towards his living expenses and considered two-third towards contribution to his family, which works out to Rs.14,400/- and adopting the multiplier factor '15' basing on the age of the younger parent of the deceased i.e., the mother, who is the 2nd petitioner, arrived at Rs.2,16,000/-, since the deceased died in unmarried status. The negligence was attributed to the drivers of both the vehicles and recording a finding therefor, apportioned the liability in two equal halves. Interest is awarded at 9% p.a. from the date of petition till realization.

3. Heard Sri M. Rajamalla Reddy, learned counsel for the petitioners-appellants and Sri Srinivasa Rao Vutla, learned Standing counsel for the 6th respondent-Insurance Company.

4. No representation for the respondent No.3. Though service was effected on respondent No.1, none appears. Respondent Nos.2, 4 and 5 remained *ex parte* before the Tribunal and it is already recorded that in view of the ruling in **Meka Chakra Rao v. Yelubandi Babu Rao @ Reddemma and others**[1] rendered by a Division Bench of this Court, there is no need to have the presence of respondents 1, 2, 4 and 5.

5. For the sake of convenience, the parties will hereinafter be referred to as arrayed before the Tribunal.

6. Learned counsel for the appellant would submit that the Tribunal ought to have taken the multiplier factor basing on the age of the deceased in view of settled law, but not the age of the appellant, in determining the multiplier factor. In **Munna Lal Jain v. Vipin Kumar Sharma**[2] Hon'ble Apex Court while holding that 50% of wages to be deducted in case of death of a person in unmarried status and to apply the multiplier factor basing on the age of the deceased, held that in case the parents are dependents to grant future prospects

[1] 2001(1) ALT 495 (D.B.)
[2] (2015) 6 SCC 347

also basing on the ruling in **Rajesh v. Rajbir Singh**[3], when applied the same the petitioners-appellants are entitled to future profits.

7. Since the age of the deceased is shown as 23 years the relevant multiplier factor is '18'. The Tribunal fixed the income of Rs.1,800/- per month, or annual income Rs.21,600/- (Rs.1,800/- x 12). However, since the deceased died in unmarried status, 50% thereof is permissible to be deducted towards his personal living expenses, in which case his contribution would work out to Rs.10,800/- and when applied the multiplier factor '18' loss of dependency would work out to Rs.1,94,400/-. Since the petitioners-appellants are also entitled to 50% of the additional amount towards future prospects and 50% thereof would work out to Rs.97,200/-. Thus, the petitioners are entitled to Rs.2,91,600/-. This apart, no amount is granted towards funeral expenses. Therefore, a sum of Rs.10,000/- is awarded for the same. Thus, in all, the petitioners-appellants are entitled to Rs.3,01,600/-.

8. In the result, the Appeal is partly allowed enhancing from Rs.2,16,000/- (Rupees Two lakhs and sixteen thousand only) to Rs.3,01,600/- (Rupees Three lakhs one thousand and six hundred only). The rate of interest awarded at 9% p.a. on Rs.2,16,000/- is maintained and on the enhanced amount of Rs.85,600/- interest at the rate of 7.5% per annum is awarded keeping in view of decision in **Rajesh v. Rajbir**. The respondents 1 to 3 are one set and the

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[3] (2013) 9 SCC 54

respondents 4 to 6 are on the other set jointly and severally liable to pay the compensation in 50% equal share as directed by the Tribunal. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the Civil Miscellaneous Appeal shall stand closed.

A. SHANKAR NARAYANA

Dt. 25.10.2017
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