

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.373 OF 2014

JUDGMENT:

The present appeal is preferred by the petitioners in M.V.O.P. No.121 of 2009, on the file of the Chairman, Motor Accidents Claims Tribunal - cum - XIII Additional District Judge, Narasaraopet (for short 'Tribunal'), whereby and where-under, the Tribunal awarded a sum of Rs.1,65,000/- as compensation as against the claim of Rs.3,00,000/- laid under Sections 140, 141 and 163-A of the Motor Vehicles Act, 1988 (for short 'Act'), aggrieved over the order and decree, dated 18.06.2011, passed by the Tribunal in the aforesaid MVOP.

2. The appellants herein are the petitioners, who are wife and son of Shaik Masthan, in the aforesaid M.V.O.P., while respondent - erstwhile Andhra Pradesh State Road Transport Corporation is the respondent as such.

3. For the sake of convenience, the parties are hereinafter referred to as they were arrayed in the aforesaid M.V.O.P.

4. The husband and father of petitioners, Shaik Masthan (deceased) died in a road accident when RTC bus bearing registration No.AP 11Z 4298 hit the lorry, in which the deceased was travelling.

So far as the fact-situation is concerned, there is no dispute between the parties.

5. The Tribunal having framed relevant issues, examining petitioner No.1 as PW.1 and marking Exs.A-1 to A-6, and on appraisal of evidence, taken the notional income of Rs.15,000/- per annum and the age as 45 years, applied multiplier factor '14' and arrived at Rs.1,40,000/- towards loss of dependency and awarded Rs.15,000/- towards loss of consortium and Rs.10,000/- towards funeral expenses and, thus, a total sum of Rs.1,65,000/- was awarded as compensation with interest at 7.5% per annum thereon.

6. Heard Sri G.V.S. Mehar Kumar, learned counsel for the appellants - petitioners, and Sri M.V. Durga Prasad, learned Standing Counsel for erstwhile APSRTC.

7. The learned standing counsel's main submission is that the deceased was since travelling in a lorry ought to have been construed as an unauthorized passenger by the Tribunal and ought to have rejected the claim on that ground. Though, it appears intrinsically impressive, but the fact is that the accident did occur on account of RTC bus hitting the lorry. Had the claim was against the owner of the lorry and its insurer, certainly, it would have been a fundamental violation so far as the insurer is concerned, but it is not so in the present case.

8. Now, turning to whether the petitioners are entitled to enhancement of compensation. The approach of the Tribunal, *ex facie*, has been very conservative as the Tribunal has taken notional income, despite taking the multiplier factor from the table formulated by the Hon'ble Supreme Court in **Sarla Verma v. Delhi Transport Corporation**¹. It is now settled that even a coolie would be earning not less than Rs.30,000/- per annum. The claim is made for Rs.3,00,000/-. The Tribunal except awarding Rs.15,000/- towards loss of consortium and Rs.10,000/- towards funeral expenses in addition to what was determined by it, no other amounts were granted under other heads. Therefore, when viewed in the context of the line of judgments rendered by the Hon'ble Supreme Court as the earnings of even a coolie, certainly, the amount of Rs.3,00,000/- claimed by the petitioners cannot be viewed as excessive or exorbitant, and it would be somewhere nearer to just and adequate compensation if not slightly lesser to less than just and adequate compensation to which the petitioners would be entitled in case the proper multiplier factor is applied.

9. Concerning the rate of interest, the Tribunal awarded the same at 7.5% per annum, which is in tune with the rate of interest

¹. 2009 ACJ 1298

awarded by the Hon'ble Supreme Court in **Rajesh v. Rajbir Singh**² and, therefore, the same is maintained on the enhanced amount even.

10. In the result, the appeal is allowed and the order and decree, dated 18.06.2011 passed by the Tribunal in M.V.O.P. No.121 of 2009 are modified enhancing the compensation to Rs.3,00,000/- (Rupees three lakhs) from Rs.1,65,000/- with interest at the rate of 7.5% per annum thereon from the date of petition till realization. The enhanced amount shall be apportioned between the petitioners in the same proportion, in which the original compensation amount was directed to be apportioned and disbursed by the Tribunal. There shall be no order as to costs.

As a sequel thereto, miscellaneous applications, if any, pending in these appeals, stand disposed of.

A. SHANKAR NARAYANA, J

October 25, 2017.

Mgr

². (2013) 9 SCC 54