THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

C.M.A .No.4680 of 2003

JUDGMENT

This appeal is directed against the judgment and decree dated 11.07.2001 in O.P.No.714 of 1998 on the file of Motor Accidents Claims Tribunal (Additional District Judge), Khammam.

2. The claimants filed aforesaid O.P. claiming compensation of Rs.4,50,000/- for the death of deceased Dabbikar Venkata Ramana in a road traffic accident that took place on 03.05.1998 while the deceased along with his brother was returning from Padmagudem to Manugur in a jeep bearing No.AP-20-T-5875 and when the said jeep was crossing Aggigudem, the first respondent drove it in a rash and negligent manner at high speed and applied sudden breaks, due to which, the deceased, who was sitting on front seat, fell on road resulting head injury and succumbed to injuries while undergoing treatment. The claimants, who are wife, daughter, son and mother of deceased, claimed that the deceased was doing business by running meat shop in P.V.Colony, Manugur, and fancy shop in the premises leased out by S.C.Company Limited, Manugur, and was earning a sum of Rs.10,000/- per month. Thus, they claimed compensation of Rs.4,50,000/- from respondents 1 to 3, who are driver, owner and insurer of crime vehicle.

3. The first and second respondents remained *ex parte*. The third respondent-insurance company filed counter denying its liability and contended that the claim was excessive and exorbitant.

4. During the course of enquiry, the Tribunal examined two witnesses as P.Ws.1 and 2 and marked Exs.A1 to A9. On behalf of insurance company, no oral evidence was adduced, but a copy of insurance policy was marked as Ex.B1.

5. Upon considering the evidence on record, the Tribunal determined the compensation of Rs.2,22,000/- while assessing monthly income of deceased at Rs.1800/- and after deducting 1/3rd for his personal expenses and applying multiplier '14' for the age group of deceased as 38 years.

6. The contention of learned counsel for appellants/claimants is that though the claimants have produced documentary evidence to the effect that the deceased was earning more than Rs.10,000/- per month by running meat shop and also fancy shop in the premises leased out by S.C.Company Limited on a monthly rent of Rs.331/-, the Tribunal awarded meager amount.

7. Learned Standing Counsel for 3rd respondent-insurance company submitted that though the claimants produced documents showing that the deceased was running two shops, there is no proof to show the actual income being earned by deceased and therefore, the Tribunal has rightly took the monthly income of deceased at Rs.1800/-per month and determined just and reasonable compensation, which need not be interfered with by this Court.

8. Perused the order impugned. There is no dispute with regard to the death of deceased in a road traffic accident and also the liability of

insurance company. The only dispute is with regard to quantum of compensation.

9. The first petitioner, who is wife of deceased, was examined as P.W.1. She stated in her evidence that her husband was doing business by running meat shop in P.V.Colony, Manugur and also fancy shop in shop No.5 by taking lease from S.C. Company Limited. Ex.A7 is certificate issued by Gram Panchayat Samithi, Singaram, to the effect that the deceased was doing business by running meat shop. In addition to that, Ex.A8 is certificate issued by General Manager, S.C. Company Limited, Manugur, certifying that the deceased was doing business by running fancy shop in its premises on lease. The terms and conditions of allotment are also appended to the said certificate, wherein it was clearly mentioned that monthly rent for the premises was Rs.331/-. If the deceased was doing business by running meat and fancy shops, he would have certainly earned more than Rs.2,000/- per month even after exclusion of incidental expenses in relation to shops. In 1998 and 2000, even the daily wages of casual labourer was not less than Rs.100/- per day.

10. The deceased was aged about 38 years at the time of accident. The claimants have proved that the deceased was doing business by running meat and fancy shops and was maintaining his family consisting of wife, daughter, son and also old-aged mother. Therefore, it would be just and reasonable to assess the monthly income of deceased at Rs.2400/- per month instead of Rs.1800/- per month as taken by Tribunal and after deducting 1/3rd of it for his

personal expenses, his contribution to the family comes to Rs.1800/- per month. The appropriate multiplier for the age group of deceased is '14' as taken by Tribunal. In view of the above, the compensation awarded by Tribunal is enhanced from Rs.2,22,000/- to Rs.3,02,400/- (Rs.1800/-X12X14=3,02,400/-) and the 3rd respondent-insurance company is directed to pay said compensation along with interest at 7.5% per annum from the date of petition till realization. The said compensation shall be apportioned proportionately between claimants as done by Tribunal. The order of Tribunal in all other aspects shall remain unaltered.

11. Accordingly, the Civil Miscellaneous Appeal is allowed in part modifying the impugned award passed by Tribunal, by enhancing the compensation from Rs.2,22,000/- to Rs.3,02,400/- and reducing the rate of interest from 9% to 7.5% per annum. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this appeal shall stand closed.

M.S.K.JAISWAL, J

24th January, 2017
sj