

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A. No.3042 OF 2005

JUDGMENT:

1. This Appeal, under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), is filed by the appellant-2nd respondent (insurer), aggrieved by the order dated 24.06.2005 passed in O.P. No.298 of 2003 by the Chairman, Motor Accidents Claims Tribunal-cum-III Additional District Judge at Warangal (for short, 'the Tribunal').

2. Heard the learned counsel for the appellant-insurer, learned counsel for the respondents 1 to 6-petitioners and perused the record.

3. Learned counsel for the appellant-insurer would submit that the Tribunal had granted a compensation of Rs.7,84,800/- with interest at the rate of 7% p.a. which is excessive and the petitioners are not entitled for such compensation; the calculation made by the Tribunal is erroneous and ultimately prayed to reduce the compensation.

4. On the other hand, learned counsel for the respondents-petitioners would contend that the deceased was aged 42 years, working as tube-repairing mazdoor in Singareni Collieries Company Limited, earning an amount of Rs.6,343/- p.m. The Tribunal has taken into consideration the same and applied the multiplier 15, applicable to the age group of deceased, and rightly assessed the compensation of Rs.7,84,800/- in favour of the petitioners and there is no infirmity in the impugned order. The finding is based on record and ultimately prayed to dismiss the Appeal.

5. In view of the contentions put forth by both parties, the point for determination is whether the compensation awarded by the Tribunal is liable to be reduced?

6. **POINT:** The respondents-petitioners to substantiate their claim examined P.Ws.1 to 3 got marked Exs.A-1 to A-11. The oral and documentary evidence available on record reveals that the deceased was an employee in Singareni Collieries Company Limited, aged 42 years, drawing a monthly salary of Rs.6,540/- as per Ex.A-11, salary certificate dated 30.07.2004. The Tribunal has taken into consideration the monthly income of the deceased as Rs.6,540/-, applied the multiplier 15 and assessed the compensation payable to the petitioners towards loss of dependency as Rs.7,84,800/-. The Tribunal failed to grant any amount of compensation towards loss of love and affection, funeral expenses and loss of consortium to the 1st petitioner, wife of the deceased. No Appeal is preferred by the respondents-petitioners. Under these circumstances, granting Rs.7,84,800/- against the original claim of Rs.10,00,000/- in favour of the respondents-petitioners who are the wife, minor children, and aged parents of the deceased cannot be faulted. This amount of compensation is calculated after deducting 1/3rd amount from out of annual income of the deceased towards his personal expenses. Therefore, no infirmity is found in the impugned order. The Appeal is devoid of merits and is liable to be dismissed.

7. In the result, the Appeal is dismissed confirming the order dated 24.06.2005, passed in O.P. No.298 of 2003 by the Tribunal.

8. As a sequel, pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

Dr. SHAMEEM AKTHER, J

Date: 09.10.2017.
Dsh

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

138



12102017

M.A.C.M.A. No. 3042 OF 2005

Date. 09.10.2017

DSH