THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

M.A.C.M.A No. 1265 of 2013

JUDGMENT:

This appeal is arising out of the order dated 30.04.2007 in O.P.No.875 of 2005 on the file of the Motor Accident Claims Tribunal (District Judge), at Nizamabad, (for short, 'the Tribunal').

2. The claimants, who are parents of the deceased, filed the claim petition under Section 166(1)(c) of the Motor Vehicles Act seeking compensation of Rs.5,00,000/- on account of the death of their son in a motor vehicle accident. The boy was a minor, aged 12 years, by the date of accident. The Tribunal, on consideration of the evidence, awarded compensation of Rs.2,80,000/-. This is an appeal preferred by the Insurance Company mainly on the point that the Tribunal has awarded excessive compensation without deducting personal expenditure of the deceased when they have taken the income of Rs.15,000/- per year.

3. Heard the learned counsel for appellant-Insurance company, and the learned counsel for respondents-claimants.

4. Placing reliance on the decision reported in **Munna Lal Jain and another v. Vipin Kumar Sharma and others**[1], the learned counsel for the appellant-Insurance company submits that 50% of the income has to be deducted towards expenditure of the deceased as the

[1] (2015) 6 Supreme Court Cases 347

deceased was a bachelor. He further submits that the income of the deceased was taken as Rs.15,000/- per year, and therefore some amount can be deducted towards his personal expenditure.

5. In the case of **Munna Lal Jain (1 supra)**, the deceased was aged about 30 years and he was a bachelor and therefore, the Court ordered deduction of 50% towards his personal and living expenses. In the instant case, the age of the deceased was 12 years. The Tribunal has awarded compensation of Rs.2,80,000/- against the claim of Rs.5,00,000/-. The Tribunal has taken the notional income of the deceased as Rs.15,000/- and awarded the compensation without deducting any amount towards his personal expenditure.

6. In view of the decision rendered in the case of **Kishan Gopal and another v. Lala and others**[2], in a case of death of minor boy aged about 10 years, the Hon'ble Supreme Court has taken the income of the deceased as Rs.30,000/- as notional income, and also adopted the multiplier '15' and granted compensation. In the same case, an amount of Rs.50,000/- was also awarded for conventional charges.

7. In the instant case, the Tribunal has taken only Rs.15,000/- and adopted the multiplier '15' and granted compensation and no amount was deducted towards his personal expenditure.

[2] (2014) 1 Supreme Court Cases 244

8. In view of the decision rendered in **Kishan Gopal (2 supra)**, the respondents-claimants may get even more compensation than that is awarded by the Tribunal, but as there is no appeal filed by the claimants for enhancement of compensation, the order passed by the Tribunal has become final.

9. Keeping in view the ratio of the decision in **Kishan Gopal (2 supra)**, I do not see any merit in this appeal, and the appeal is liable to be dismissed.

10. Accordingly, the appeal is dismissed, and the order passed by the Tribunal is confirmed. No costs. Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE G.SHYAM PRASAD

16th February, 2017
KSM

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

M.A.C.M.A No. 1265 of 2013

16th February, 2017

ksm