THE HON'BLE MS. JUSTICE J. UMA DEVI

M.A.C.M.A.No.44 of 2008

JUDGMENT:

1. Against the order in O.P.No.959 of 2005 dated 24.07.2007 on the file of the Motor Accidents Claims Tribunal-cum-District Judge, Karimnagar, the present appeal is filed by the claimants in the aforementioned O.P.

2. The claimants in the above mentioned O.P. are the legal heirs of the deceased Kodati Ramulu, who was working as a Head Operator in 11-A incline of Singareni Collieries Company, Godavarikhani, by the date of his death. The case of the claimants is that on 28.08.2005 in the morning hours while the deceased was proceeding towards Singareni Collieries Company to attend to his first shift duty and when he reached near Area workshop, Godavarikhani, a lorry bearing No.A.P.H-2112 driven by its driver in a rash and negligent manner with high speed came in contact with the deceased, as a result of it, he fell down and received grievous injuries all over his body and died on the spot. On a complaint lodged by the son of the deceased, the police of Ramagundam Traffic Police Station registered a case in Crime No.138 of 2005 under Section 304-A I.P.C. against the driver of the lorry bearing No.A.P.H-2112. The claimants asserted that the deceased was working as a Head Operator in 11-A incline Godavarikhani and was drawing a salary of Rs.12,341/- per month. The claimants further asserted that had the deceased not died in the

accident he would have survived for another 25 years more and would have rendered his support to them. Therefore, the claimants laid the claim against the driver, owner and insurer of the offending lorry bearing No.A.P.H.2112 for a sum of Rs.10,00,000/-. The Tribunal on appreciation of evidence of P.Ws.1 to 3 and Exs.A1 to A8, awarded compensation of Rs.4,70,184/-. Having not been satisfied with the compensation so awarded, the appellants/ claimants approached this Court by way of filing the present appeal.

3. The insurer of the offending lorry did not choose to appear before this Court through its counsel, though got served notice, despite providing reasonable opportunity to it by adjourning the matter from time to time. As there is no representation on behalf of the Insurance Company, this Court has heard the arguments of the learned Counsel appearing for the appellants/ claimants.

4. Learned Counsel for the appellants contended that the Tribunal ought to have applied multiplier '8' instead of '6' as the deceased was aged about 55 years by the date of accident and thus the award passed by the Tribunal was erroneous. He further contended that the deceased was survived by claimants 1 to 5 and as the dependents were 5, the Tribunal ought to have deducted 1/5th income of the deceased instead of 1/3rd of the income towards his personal expenditure. Lastly, he contended that the Tribunal had awarded Rs.10,000/- towards loss of consortium to the wife of the

deceased instead of Rs.25,000/-. The compensation awarded under the head of funeral expenses was also very meagre and low.

5. I have gone through the order impugned in this appeal and also the oral and documentary evidence available in the case record.

6. Among the witnesses examined by the claimants, P.W.1-Kodati Sahanthamma was the wife of the deceased. P.W.2-Kamdari Vamshi Krishna was the eyewitness to the accident. P.W.3-A.Sudhakar Reddy was the employee of the company of the deceased through whom Ex.A8/salalry certificate of the deceased was marked. The evidence given by P.W.2 regarding the manner of accident remained uncontroverted. Since no evidence of whatsoever nature was adduced by the respondents disproving the evidence of P.W.2, the Tribunal rightly came to the conclusion that the driver of the lorry bearing No.A.P.H.2112, which hit the deceased and caused instantaneous death of the deceased, was at fault.

7. Coming to the contention raised by the learned Counsel for the appellants as to the application of multiplier '8', the claimants could able to establish that the deceased was aged about 56 years by the date of his death by producing Ex.A7-Date of Birth Certificate of the deceased. The appellants contention was that as per Second Schedule table of the Motor Vehicles Act, the appropriate multiplier to be applied was '8' but not '6. As per the decision rendered in

Sarla Verma vs. Delhi Transport Corporation[1], the multiplier to be applied for determination of compensation in the case of death of a person in between 56 to 60, is '8'. Having found substantial force in the contention raised by the learned Counsel for the appellants in so far as the multiplier to be applied, this Court is of the view that the multiplier of '8' can be applied in this case instead of '6'. This Court also noticed substantial force in the contention raised by the learned Counsel for the appellants that the Tribunal ought to have deducted 1/5th income of the deceased towards his personal expenditure instead of 1/3rd as the dependents of the deceased were '5' in number.

8. Coming to the contention raised by the learned Counsel for the appellants regarding grant of compensation under the head of consortium is concerned, this Court is of the view that the amount of Rs.10,000/- awarded under the head of consortium is also very low and meagre. Further the amount awarded under the head of funeral expenses is also very low and meagre.

9. Following the decision rendered by the Supreme Court in **National Insurance Company Limited., Vs. Pranay Sethi**[2], the compensation awarded under the head of consortium is enhanced to Rs.40,000/- from Rs.10,000/-. The compensation awarded under the head of funeral expenses is also enhanced to Rs.15,000/- from Rs.2,000/-. It is also noticed from the award passed by the Tribunal

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[1] (2009) 6 Supreme Court Cases 121

[2] AIR 2017 SC 5157

that no amount is awarded under the head of loss of estate. Therefore, this Court is of the view that awarding of Rs.15,000/- under the head of loss of estate is fair and reasonable.

10. Coming to the contention raised by the learned Counsel for the appellants regarding grant of compensation under the head of loss of contribution of income of the deceased to his family, this Court is of the view that the compensation of Rs.4,28,184/- awarded by the Tribunal under the said head needs to be revised. The deceased was getting net salary of Rs.8,920/- per month by the date of his death as per Ex.A8-salary certificate. On deducting 1/5th income of the deceased towards his personal expenditure, his contribution to the family comes to Rs.7,136/- per month and Rs.85,632/- per annum. By applying an appropriate multiplier of '8', the loss of contribution to the family comes to Rs.6,85,056/-. The appellants-claimants thus, entitled to get the following amounts under various heads towards compensation:

1. Contribution of income to the family		Rs.6,85,056/-
2. Loss of consortium	.. Rs.	40,000/-
3. Funeral expenses	.. Rs.	15,000/-
4. Loss of estate	.. Rs.	15,000/-
		Rs.7,55,056/-

11. In the light of my aforementioned discussion, the appeal is allowed in part awarding compensation of Rs.7,55,056/- (Rupees Seven Lakhs Fifty Five Thousand Fifty Six only) together with

interest @ 7.5% per annum from the date of filing of the claim petition till the date of realization and it shall be paid by respondent Nos.1 to 3 jointly and severally. The compensation amount shall be apportioned among the appellants/claimants by the Tribunal in the same ratio as it fixed earlier. On deposit of such compensation amount they are permitted to withdraw their shares of compensation amount at once.

Miscellaneous applications, if any pending in this appeal, shall stand closed. There shall be no order as to costs.

JUSTICE J. UMA DEVI

27.04.2018
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