THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.476 of 2008

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), by the appellant-Insurance Company aggrieved by the order dated 28.09.2007 in O.P.No.1730 of 2005 on the file of the V Additional Metropolitan Sessions Judge (Mahila Court)-cum-XIX Additional Chief Judge, City Criminal Court, Hyderabad.

2. Heard the learned counsel for the appellant-Insurance Company and the learned counsel for the respondents-claimants and perused the record.

3. Learned counsel for the appellant-Insurance Company would contend that the Court below had taken monthly income of the deceased as Rs.3,000/- and without deducting any personal expenses, straight away applied the multiplier and granted Rs.4,32,000/- towards loss of dependency and Rs.30,000/- on other heads. In total, the Court below granted Rs.4,62,000/-, which is excessive and ultimately prayed to reduce the same.

4. On the other hand, learned counsel for the respondents-claimants would contend that the Court below justified in granting compensation of Rs.4,62,000/- with interest @ 7% per annum. There is no infirmity in the order under challenge. There are no grounds to interfere with the same and prayed to dismiss the appeal.

5. In view of the submissions made by both sides, the point that arises for determination is, whether the compensation granted by the Court below is excessive?

6. There is no dispute with regard to the death of the deceased-Santosh Agarwal in a road accident caused by lorry bearing No.AP 4T 7064 being driven by its driver in a rash and negligent manner on 05.07.2005. The only dispute is with regard to quantum of compensation.

7. As per the material available on record, the deceased was 47 years old. P.W.1 deposed that the deceased was running Ladies Emporium in the name and style of Simran Emporium at Huda Complex, Saroor nagar and earning Rs.7,000/- per month. Considering the totality of the circumstances, the Court below took the monthly income of the deceased as Rs.3,000/-, applied multiplier '12' for the age of 47 years and assessed Rs.4,32,000/- towards loss of future income. Since the Court below had assigned reasons in taking Rs.3,000/- as monthly income of the deceased, there are no grounds to interfere with the same.

8. As per the decision rendered in *Smt.Sarla Verma and others v. Delhi Transport Corporation and another*[1], the suitable multiplier for the age (47 years) of the deceased is '13'. Further, in view of the decision rendered in *National Insurance Company Limited v. Pranay Sethi and others*[2], though an amount of Rs.70,000/- has to be granted towards conventional heads, the Court below granted only a sum of

[1] 2009 (6) SCC 121
[2] 2017(6)ALD 170(SC)

Rs.30,000/-. There are four dependants on the deceased. In such an event, the Court below erred in not deducting 1/4th earnings of the deceased towards his personal expenses. However, the Tribunal granted a sum of Rs.4,32,000/- towards loss of earnings, the same cannot be said to be on higher side. Therefore, there are no circumstances to interfere with the order under challenge. The appeal is devoid of merit and is liable to be dismissed.

9. In the result, the appeal is dismissed.

The Miscellaneous Petitions, if any, pending shall stand closed. There shall be no order as to costs.

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Dr. SHAMEEM AKTHER, J

Date: 24.07.2018
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