

THE HON'BLE DR JUSTICE SHAMEEM AKTHER

M.A.C.M.A.NO.2165 OF 2006

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), by the petitioners-claimants in M.V.O.P.No.308 of 2002 on the file of the Motor Accident Claims Tribunal-cum-Principal District Court, Kadapa, aggrieved by the order dated 05.06.2006, whereby the Court below granted compensation of Rs.90,000/- with proportionate costs and interest at the rate of 7.5% per annum from the date of petition till the date of realisation, in favour of the claimants-petitioners, for the death of the deceased, Sana Venkata Subbanna, in a motor accident, which occurred on 22.02.2002 due to rash and negligent act driver of the offending vehicle, i.e., car bearing No.AP-04-E-8388.

2. Heard the counsel for both sides.

3. The parties hereinafter are referred to as arrayed before the Court below.

4. Learned counsel for the appellants submitted that the deceased was 65 years old and was running a gold shop. The Tribunal had taken notional income as Rs.15,000/- and ultimately, granted compensation of Rs.90,000/- with interest @ 7.5% per annum from the date of petition till the date of realisation. The claimants filed the present appeal to enhance the compensation, which is meagre and prayed to enhance compensation of Rs.12,00,000/-.

5. On the other hand, learned counsel for the insurer submitted that the Tribunal had granted just and reasonable compensation and ultimately, prayed to dismiss the same.

6. There is no dispute with regard to the death of the deceased in motor accident which occurred on 22.02.2002 due to rash and negligent driving of the driver of the Car bearing No.AP-04-E-8388. The only dispute is with regard to quantum of compensation awarded. As per the entire evidence on record, no certificate, license etc., or any document is filed to show that the deceased was running a gold shop. Therefore, the Tribunal cannot be faulted with for taking the notional income of the deceased at Rs.1,500/- per month and awarding compensation for loss of dependency by applying suitable multiplier. There are no grounds to interfere with the same.

7. Further, an amount of Rs.15,000/- towards loss of consortium and an amount of Rs.15,000/- towards loss of estate, funeral expenses, transport charges and mental agony and suffering, due to sudden and accidental demise of the deceased were granted. It is apt to refer to the recent decision of the Apex Court in **National Insurance Co. Ltd., Vs. Pranay Sethi and others**¹, wherein, it was held as follows:-

“Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs.15,000/-, Rs.40,000/- and Rs.15,000/- respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years.”

8. Taking into consideration the aforementioned decision of the Apex Court, this Court is inclined to grant Rs.40,000/- to the 1st appellant/1st claimant (wife) towards loss of consortium,

¹ 2017 (6) ALD 170 (SC)

Rs.15,000/- to the appellants-claimants towards loss of estate and another Rs.15,000/- towards funeral expenses. Thus, the appellants-claimants are entitled for a total compensation of Rs.1,30,000/- (Rupees one lakh thirty thousand only) (Rs.60,000/- + Rs.40,000/- + Rs.15,000/- + Rs.15,000/-). Enhanced compensation carries interest @ 7.5% per annum.

9. Accordingly, this appeal is allowed in part modifying the order, dated 05.06.2006, passed by the Tribunal, enhancing the compensation from Rs.90,000/- to Rs.1,30,000/- with interest at the rate of 7.5% per annum from the date of petition till realisation. The apportionment is as under.

(a) Appellant No.1 (Wife) – Rs.80,000/-.

(b) Appellant No.2 (Son) – Rs.25,000/-.

(c) Appellant No.3 (Son) – Rs.25,000/-.

The other conditions imposed by the Tribunal remain unchanged. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(DR. SHAMEEM AKTHER, J)

11th June 2018
RRB