

**THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER**

**M.A.C.M.A.No.2673 of 2005**

**JUDGMENT:**

Aggrieved by the grant of compensation of Rs.2,20,000/-, as against the claim of Rs.20,00,000/-, by the Motor Accidents Claims Tribunal-cum-III Additional District Judge, Visakhapatnam, vide order, dated 18.05.2005, rendered in M.O.P.No.1167 of 2002, the claimants preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity) seeking enhancement of compensation.

2. Heard the learned counsel for the appellants-claimants. Despite listing the matter under the caption "For Orders", there is no representation for the 3<sup>rd</sup> respondent-insurance company. As the appeal is of the year 2005, it can be disposed of basing on the material available on record, without waiting for the learned counsel for the 3<sup>rd</sup> respondent-insurance company to advance arguments.

3. The learned counsel for the appellants-claimants would contend that the Tribunal granted a meagre compensation of Rs.2,20,000/-, as against a total claim of Rs.20,00,000/-, for the death of Mandru Ananda Vijayakumar in a motor accident, which occurred on 21.08.2000, due to rash and negligent driving of the driver of the Car bearing registration No.TN V 2053; that the Court below erroneously deducted 1/3<sup>rd</sup> towards personal expenses of the deceased though there are five dependents; that the Court below granted lesser amount on different heads as against the claim and ultimately, prayed to enhance the compensation.

4. It is not in dispute that the deceased-Mandru Ananda Vijayakumar died in a motor accident occurred on 21.08.2000, due to rash and negligent driving of the driver of Car bearing registration No.TN V 2053.

5. The point that arises for consideration in this appeal is whether the appellants-claimants are entitled to enhancement of compensation as claimed.

6. As per Ex.A.6, Secondary School Certificate of the deceased, the deceased was aged about 35 years as on the date of subject accident. But, as per Ex.A.2-postmortem report, the deceased was aged about 38 years old as on the date of subject accident. P.W.1 deposed that deceased was working as Managing Partner in M/s. Sagar Associates and earning Rs.20,000/- per month. Though P.W.1 contended that the deceased was earning Rs.20,000/- per month, there is no legally acceptable evidence to prove the same. The Tribunal took the annual income of the deceased as Rs.15,000/-, deducted 1/3<sup>rd</sup> of it towards personal expenses of the deceased, applied multiplier '16' to the age of the deceased i.e., 38 years and granted an amount of Rs.1,60,000/- towards loss of dependency. The Tribunal further granted an amount of Rs.10,000/- towards funeral expenses, Rs.15,000/- towards loss of love and affection, Rs.15,000/- towards loss of consortium and an amount of Rs.20,000/- towards loss of estate. In all, the Tribunal granted a compensation of Rs.2,20,000/- with interest @ 7.5% per annum from the date of petition till realisation in favour of the appellants-claimants.

7. The Tribunal took the annual income of the deceased as Rs.15,000/-. Since the deceased was doing business, there will be ups and downs in the business and in view of Ex.A.7-service certificate of the deceased, this Court is inclined to take annual income of the deceased at Rs.24,000/-. The Tribunal deducted 1/3<sup>rd</sup> thereof towards his personal expenses. Since there are five dependants on the deceased, 1/4<sup>th</sup> of the income has to be deducted towards his personal expenses, as per the decision of the Apex Court in **Sarla Verma v. Delhi Transport Corporation**<sup>1</sup>, the suitable multiplier is '16'. The total loss of dependency would come to Rs.2,88,000/- (Rs.24,000/- (-) ¼ of it x 16).

8. It is apt to refer to the recent decision of the Apex Court in **National Insurance Co. Ltd., Vs. Pranay Sethi and others**<sup>2</sup>, 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.”**

Taking into consideration the aforementioned decision of the Apex Court, this Court is inclined to grant Rs.40,000/- towards loss of consortium to the 1<sup>st</sup> appellant/1<sup>st</sup> claimant (wife of the deceased) and Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses to all the appellants. Thus, the appellants-claimants are entitled to a total compensation of Rs.3,58,000/-. The Tribunal awarded interest at the rate of 7.5% per annum from the date of petition till the date of deposit. This Court is also inclined to

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<sup>1</sup> AIR 2009 SC 3104

<sup>2</sup> 2017 (6) ALD 170 (SC)

award interest @ 7.5% per annum on the enhanced amount of compensation from the date of petition till realisation.

9. Accordingly, this appeal is allowed in part, modifying the order, dated 18.05.2005, passed in M.O.P.No.1167 of 2002 by the Tribunal, enhancing the compensation from Rs.2,20,000 to Rs.3,58,000/-. The enhanced amount of compensation carries interest @ 7.5% per annum from the date of petition till realisation. The 1<sup>st</sup> appellant-1<sup>st</sup> claimant is entitled for half of the enhanced compensation amount and the appellants 2 to 5/claimants 2 to 5 are entitled to share the remaining half of the enhanced compensation equally and on deposit they are permitted to withdraw the same accordingly, with interest accrued thereon. The other terms of the Order under challenge remain unaltered. No costs.

Miscellaneous Petitions pending, if any, shall stand closed.

**AUGUST 31, 2018**  
YVL

**Dr. SHAMEEM AKTHER, J**

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**Date:31.08.2018**

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