THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3125 of 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellant/National Insurance Company Limited, aggrieved by the grant of total compensation of Rs.6,00,000/- as claimed by the respondents 1 to 3/claimants, by the Chairman, Motor Accident Claims Tribunal-cum-Principal District Judge, Nalgonda ('the Tribunal', for brevity), vide order, dated 06.06.2005, passed in O.P.No.1026 of 2002.

2. Heard the learned Standing Counsel for the appellant-Insurance Company, the learned counsel for respondents 1 to 3/claimants, the learned counsel for respondent No.4 and perused the record.

3. The learned Standing Counsel for the appellant-Insurance Company would contend that the deceased-Md.Yaseen was a bachelor. The Tribunal, by applying multiplier 17, granted compensation of Rs.6,00,000/- along with interest at the rate of 9% per annum from the date of filing of the petition till the date of realisation, which is excessive and ultimately prayed to reduce the compensation granted in favour of the respondents 1 to 3/claimants.

4. On the other hand, the learned counsel for the respondents 1 to 3/claimants would contend that the Tribunal had taken all the factors into consideration and awarded just and reasonable amount as compensation. The award passed by the Tribunal is based on record. There is nothing to interfere with the same and ultimately prayed to dismiss the appeal.

5. Having regard to the submissions of the learned counsel for both sides, the point that arises for determination in this appeal is whether the compensation granted in favour of the respondents 1 to 3/claimants is liable to be reduced.

6. There are number of citations to the effect that the age of the deceased shall be taken into consideration while granting compensation to the dependants of the deceased and that appropriate multiplier as per the judgment of the Apex court in case between Sarla Verma v. Delhi Transport Corporation[1], has to be applied in such cases. So, the finding of the Tribunal taking the age of the deceased as 24 years and adopting multiplier 17 to the age of the deceased, cannot be held erroneous. Admittedly, the accident occurred on the intervening night of 6/7-06-2002. Admittedly, the deceased was 24 years old as on the date of the accident and was a Police Constable. As per the recent decision of the Apex Court in National Insurance Co. Ltd., Vs. Pranay Sethi and others[2], where the deceased had a permanent job and was below the age of 40 years, while determining the income, an addition of 50% of actual salary to the income of the deceased at the time of accident towards future prospects, should be made. However, the Tribunal, took the monthly salary of the deceased as Rs.4,302/-, deducted 1/3rd of it towards personal expenses and by adopting multiplier 17, calculated the loss of dependency as Rs.5,85,072/-. The Tribunal further granted an amount of Rs.15,000/- towards loss of estate and Rs.3,000/- towards funeral expenses. In all, the Tribunal assessed

[1] AIR 2009 SC 3104
[2] 2017 (6) ALD 170 (SC)

the compensation payable to the respondents 1 to 3/claimants as Rs.6,03,072/-, but restricted to Rs.6,00,000/-, since the respondents 1 to 3/claimants claimed Rs.6,00,000/- only. In Pranay Sethi's case (2 supra), it was also held that 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. Keeping in view the above cited decision, if we look at the order impugned in this appeal, granting compensation of Rs.6,00,000/- to the respondents 1 to 3/claimants by the Tribunal cannot be faulted. The submissions made on behalf of the appellant-Insurance Company do not merit consideration. The appeal is devoid of merit and is liable to be dismissed.

7. In the result, the appeal is dismissed.

Miscellaneous Petitions pending, if any, shall stand closed. No order as to costs.

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Dr. SHAMEEM AKTHER, J

13th June, 2018
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