THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3281 OF 2005

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), by the appellant-claimant aggrieved by the order dated 06.10.2005 in O.P.No.830 of 2004 on the file of the Motor Accident Claims Tribunal-cum-II Additional District Judge, Nalgonda at Suryapet (for short 'the Tribunal').

2. Heard the learned counsel for appellant-claimant, the learned Standing Counsel for the 2nd respondent-Insurance Company and perused the record. There is no representation for the 1st respondent-owner.

3. Learned counsel for the appellant-claimant would contend that the Tribunal had not taken the appropriate multiplier for the age of the deceased. The Tribunal granted meagre compensation and ultimately, prayed to enhance the same.

4. On the other hand, learned counsel for the respondent-insurance company would contend that as per the criminal case record, the age of the deceased was 56 years at the time of accident. Hence, the Tribunal had taken the said age and applied appropriate multiplier and granted the compensation. There are no circumstances to interfere with the same and ultimately, prayed to dismiss the appeal.

5. In view of the submissions made by both sides, the point that arises for determination is, whether the appellant-claimant is entitled for enhancement of compensation?

6. There is no dispute with regard to the death of the deceased-Mosha in a motor accident that occurred on 24.09.2004 due to the rash and negligent driving of the driver of auto bearing No.AP-20-V-3970. The only dispute is with regard to quantum of compensation.

7. As per the entire criminal case record, age of the deceased is shown as 56 years. The Tribunal took the monthly income of the deceased as Rs.1,600/-, which comes to Rs.19,200/- per annum. After deducting 1/3rd thereof from the said amount towards personal expenses of the deceased, it comes to Rs.12,800/- as contribution to his family. In view of the decision rendered in *Sarla Verma v. Delhi Transport Corporation*[1]*'s* case, the suitable multiplier to the age (56 years) of the deceased is '9'. After applying the said multiplier, loss of dependency comes to Rs.1,15,200/-, which is rounded to Rs.1,15,000/-.

8. Further, as per the decision of the Apex Court in ***National Insurance** Co. Ltd., Vs. Pranay Sethi and others*[2], the appellant is entitled for a sum of Rs.40,000/- towards loss of consortium, Rs.15,000/- towards funeral expenses and Rs.15,000/- towards loss of estate and the same are accordingly awarded. In total, the appellant-claimant is entitled for a compensation of Rs.1,85,000/- (Rs.1,15,000/- + Rs.70,000/-) with interest @ 7.5% per annum on the enhanced compensation from the date of petition till the date of deposit.

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[1] AIR 2009 SC 3104

[2] 2017 (6) ALD 170 (SC)

9. Accordingly, the appeal is allowed in part modifying the order, dated 06.10.2005 passed by the Tribunal in O.P.No.830 of 2004, enhancing the compensation from Rs.1,25,500/- to Rs.1,85,000/- with interest @ 7.5% per annum on the enhanced amount of compensation from the date of petition till the date of deposit. On such deposit, the appellant is permitted to withdraw the entire amount along with the interest accrued thereon.

The Miscellaneous Petitions, if any, pending shall stand closed. No costs.

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Dr. SHAMEEM AKTHER, J

Date: 24.08.2018
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