

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3904 of 2012

JUDGMENT:

Aggrieved by the grant of compensation of Rs.1,90,000/- as against a claim of Rs.3,00,000/- by the Motor Accident Claims Tribunal-cum-V Additional District Judge, Mahabubnagar ('the Tribunal' for brevity), vide order, dated 31.05.2005, passed in O.P.No.440 of 2001, 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 2nd respondent-Insurance Company and perused the record. Despite listing this matter under the caption "For Orders", there is no representation for the appellants-claimants. This appeal is of the year 2012. Hence, this appeal can be disposed of on merits, basing on the material available on record, without waiting for the learned counsel for the appellants-claimants to advance arguments.

3. In the grounds of appeal, the appellants-claimants contended that the Tribunal granted a meagre compensation of Rs.1,90,000/- as against a total claim of Rs.3,00,000/-, for the death of the deceased-B.Raj Mohan Singh, who died in a motor accident occurred on 19.07.2001, due to rash and negligent driving of the driver of the lorry bearing registration No.CNR-3399. The Tribunal granted lesser amounts on different heads. The Tribunal did not grant any amount towards loss of consortium and ultimately prayed to enhance the compensation as claimed.

4. On the other hand, the learned Standing Counsel for the 2nd respondent-Insurance Company would contend that though the claimants contended that the deceased was a car driver, no driving licence was filed to substantiate the same. Further, the Tribunal had taken all the relevant factors into consideration and awarded just and reasonable compensation. There are no circumstances to interfere with the impugned order and ultimately prayed to dismiss the appeal by confirming the order under challenge.

5. It is not in dispute that the deceased-B.Raj Mohan Singh died in a motor accident occurred on 19.07.2001, due to rash and negligent driving of the driver of the lorry bearing registration No.CNR-3399. The point that arises for consideration in this appeal is whether the appellants-claimants are entitled for enhancement of compensation as claimed.

6. As per the evidence of P.W.1 (wife of the deceased) and the criminal case record, the deceased was 30 years old as on the date of the subject accident. Though the appellants-claimants contended that the deceased was a car driver, they did not choose to file his driving licence before the Tribunal to substantiate the same. Though the appellants-claimants contended that the deceased was earning Rs.5,000/- per month, there is no iota of evidence to prove the same. The Tribunal took the monthly income of the deceased as Rs.1,200/-, deducted 1/3rd of it towards personal expenses of the deceased, applied correct multiplier '17' to the age of the deceased (30 years) and granted an amount of Rs.1,63,200/- towards loss of life and loss of future earnings. The Tribunal further granted an amount of Rs.1,800/- towards funeral expenses and Rs.25,000/- towards loss of

love and affection, loss of pleasure and amenities of life. In all, the Tribunal granted a compensation of Rs.1,90,000/- with interest @ 9% per annum from the date of petition till realisation, in favour of the appellants-claimants.

7. The Tribunal took the monthly income of the deceased as Rs.1,200/-. The deceased was a driver remained undisputed before the Tribunal in view of Ex.A.1-Certified copy of FIR, Ex.A.4-Certified copy of charge-sheet and Ex.B.1-News item, this Court is inclined to take the monthly income of the deceased at Rs.1,500/- per month. The Tribunal deducted 1/3rd of the monthly income of the deceased towards his personal expenses. Since there are 5 dependants on the deceased, 1/4th of the monthly income has to be deducted towards his personal expenses, as per the decision of the Apex Court in *Sarla Verma v. Delhi Transport Corporation*¹. In view of the same, the total loss of dependency would come to Rs.2,29,500/- (Rs.1,500/- x 1/4 x 12 x 17).

8. As regards compensation under conventional heads, it is apt to refer to the recent decision of the Apex Court in *National Insurance Co. Ltd., Vs. Pranay Sethi and others*², 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/- to the 1st appellant/1st claimant (wife of the deceased) towards loss of

¹ AIR 2009 SC 3104

² 2017 (6) ALD 170 (SC)

consortium, 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.2,99,500/- rounded off to Rs.3,00,000/-, as claimed. The Tribunal awarded interest at the rate of 9% per annum on the amount granted as compensation from the date of petition till realisation. This Court is inclined to 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, modifying the Order, dated 31.05.2005, passed in M.V.O.P.No.440 of 2001 by the Tribunal, enhancing the compensation from Rs.1,90,000 to Rs.3,00,000/-, as claimed. The enhanced amount of compensation carries interest @ 7.5% per annum from the date of application till realisation. The 1st appellant-1st claimant is entitled for half of the enhanced compensation, the appellants 2 to 5/claimants 2 to 5 are entitled to share the remaining half of the enhanced compensation equally. On deposit, the claimants 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.

17th September, 2018
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Dr. SHAMEEM AKTHER, J