

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

C.M.A.No.4687 OF 2003

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), by the appellants-claimants aggrieved by the order dated 04.09.2003 IN O.P. No.490 of 2001 on the file of the Chairman, Motor Accident Claims Tribunal-cum-District Judge, Adilabad (for short, 'the Tribunal') seeking enhancement of compensation awarded by the Tribunal.

2. Heard both sides and perused the record.

3. Learned counsel for the appellants would submit that the Tribunal granted compensation of Rs.1,60,000/- as against claim of Rs.3,50,000/- for the death of Deepak Rajaram Adkapure (hereinafter referred to, as 'the deceased') in a motor vehicle accident, which is meagre; that the deceased was driver of the jeep; that the deceased was bachelor aged 21 years as on the date of subject accident; that the Tribunal took monthly income of the deceased as Rs.2,000/- and applied multiplier '12' taking into consideration age of his mother, which is incorrect; that the Tribunal granted meagre sum of Rs.16,000/- towards conventional heads, and hence, he prays to enhance the compensation as prayed for.

4. On the other hand, the learned standing counsel for the respondent/insurance company would contend that the Tribunal had taken all the factors into consideration and granted just and reasonable compensation. The findings of the Tribunal are based on evidence on record and ultimately prayed to dismiss the appeal.

5. In view of the rival submissions, the point that arises for consideration is whether there are any grounds to enhance the compensation granted by the Tribunal ?

6. Death of the deceased in a road accident that occurred on 08.05.2001 while he was driving Commander jeep bearing registration No.MH27D 392, which is owned by respondent No.1 and insured with respondent No.2, is not in dispute. The only dispute is with regard to quantum of compensation granted by the Tribunal.

7. This appeal is filed by the parents of the deceased. The Tribunal took age of the deceased as 21 years, his monthly salary as Rs.2,000/-, applied multiplier '12' taking his mother's age into consideration, and after assessing the contribution of the deceased to the claimants at Rs.1,000/- per month, awarded a sum of Rs.1,44,000/- as compensation for loss of dependency. Further, the Tribunal granted compensation of Rs.16,000/- towards loss of estate. In all, it awarded compensation of Rs.1,60,000/-.

8. As per the evidence on record, the deceased was aged 21 years as on the date of the subject accident. The criminal case records marked as Exs.A1, A3, A.6 to A.8 reveal the same. P.W.1, who is father of the deceased, also deposed the same. As regards income of the deceased, it is the evidence of P.W.1 that the deceased was drawing monthly salary of Rs.6,000/- per month working as a Jeep driver. But, no documentary evidence is filed to substantiate the same. Therefore, the Tribunal rightly assessed monthly income of the deceased as Rs.2,000/-. Since the deceased is a bachelor, half of the income assessed has to be deducted towards his personal expenses. Therefore, the contribution of the deceased to the claimants comes to Rs.1,000/- per month. As regards multiplier, the Tribunal applied multiplier '12' considering the age of the mother of the deceased. On this aspect, it is apt to refer to the decision rendered in ***Munnalal Jain and others v. Vipin Kumar Sharma and others***¹, wherein it is held as under:

“When the deceased is a bachelor, relevant multiplier applicable to his age group has to be taken into consideration.

The selection of multiplier is based on the age of the deceased and not on the basis of the age of the dependant. There may be a number of dependents of the deceased whose age may be different and therefore the age of the dependents has to nexus with the computation of compensation.”

¹ 2015(6) SCC 347

In the said decision, in case of death of a bachelor, the Apex Court has taken the age of the deceased to assess the loss of dependency. Selection of the multiplier should be on the basis of the age of the deceased but not on the basis of the age of the dependant. As per the decision in **Sarla Verma v. Delhi Transport Corporation**², the appropriate multiplier to the age of the deceased is '18'. Therefore, compensation for loss of dependency comes to Rs.1,000/- x 12 x 18 = Rs.2,16,000/-.

9. The Tribunal granted an amount of Rs.16,000/- to the claimants towards loss of estate. On this aspect, it is apt to refer to a decision in National Insurance Co. Ltd., Vs. Pranay Sethi and others³ wherein the Apex Court 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.”

Relying on the aforementioned decision of the Apex Court, a sum of Rs.15,000/- towards loss of estate and another Rs.15,000/- towards funeral expenses, is awarded to the claimants. Thus, the appellants-claimants are entitled for a total compensation of Rs.2,46,000/- (Rs.2,16,000/- + Rs.15,000/- + Rs.15,000/-).

² AIR 2009 SC 3104

³ 2017 (6) ALD 170 (SC)

10. The Tribunal awarded interest at the rate of 9% per annum on the amount of compensation from the date of petition till the date of deposit. Having regard to the facts and circumstances of the case, this Court is inclined to grant interest at the rate of 7.5% per annum on the enhanced amount of compensation from the date of petition till realisation.

11. Accordingly, the appeal is allowed in part modifying the order, dated 04.09.2003 IN O.P. No.490 of 2001 on the file of the Chairman, Motor Accident Claims Tribunal-cum-District Judge, Adilabad enhancing the compensation from Rs.1,60,000/- to Rs.2,46,000/- 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 claimants are permitted to withdraw the same equally.

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

Dr.SHAMEEM AKTHER, J

02.07.2018
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