

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.4194 of 2008

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellants/claimants aggrieved by the grant of compensation of Rs.1,52,000/- as against a claim of Rs.2,25,000/- by the learned II Additional Chief Judge, City Civil Court at Hyderabad *vide* order, dated 14.09.2007, passed in O.P.No.2742 of 2005.

2. Heard the submissions of the learned counsel appearing for the appellants/claimants and the learned Standing Counsel for the United India Insurance Company Limited appearing for respondent No.2, and perused the record.

3. Learned counsel for the appellants/claimants would contend that the Court below awarded the total compensation of Rs.1,52,000/- as against a claim of Rs.2,25,000/-, which is meagre; that the Court below had taken only Rs.15,000/- per annum as notional income, but it ought to have granted an amount of Rs.30,000/- per annum as notional income of Md.Munawaruddin (hereinafter, referred to as "the deceased") and ultimately, prayed to enhance the compensation and allow the appeal as prayed for.

4. On the other hand, learned Standing Counsel for the United India Insurance Company Limited appearing for respondent No.2 would contend that the Court below had taken the notional income of the deceased as Rs.15,000/- per annum, deducted 1/3rd

towards his personal expenses and applied the multiplier “15” and it awarded an amount of Rs.2,000/- towards funeral expenses and in total, granted a compensation of Rs.1,52,000/- with interest at the rate of 7.5% per annum from the date of filing of the petition till the date of realization, which is just and reasonable; that 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 the counsel, the short point that falls for determination is:

“Whether the appellants/claimants are entitled for enhancement of compensation as prayed for?”

6. **POINT:-** There is no dispute with regard to the death of the deceased Md.Munawaruddin in an accident caused due to the rash and negligent driving of the driver of lorry bearing No.AP-26T-759 on 09.09.2005. The only dispute is with regard to enhancement of compensation. As per the evidence placed on record, the deceased was a school going boy aged seven years. There is nothing wrong in taking the multiplier “15”. The date of occurrence of the accident and death is 09.09.2005. The Court below ought to have taken Rs.24,000/- as annual notional income of the deceased. If 1/2 of the same is deducted, it comes to Rs.12,000/- towards annual contribution to the appellants 1 and 2/claimants 1 and 2, who are the parents of the deceased. As rightly held by the Court below, the appellants 3 to 5/claimants 3 to 5 are not entitled for compensation because they are not the dependants of the deceased. Hence, the appeal insofar as appellants 3 to 5/claimants 3 to 5 is dismissed without costs. When Rs.12,000/-

is multiplied with the multiplier “15”, the loss of dependency comes to Rs.1,80,000/-. The appellants 1 and 2 are also entitled for a sum of Rs.15,000/- towards funeral expenses, another sum of Rs.15,000/- towards loss of estate and another sum of Rs.15,000/- towards loss of love and affection and in total, the appellants 1 and 2/claimants 1 and 2 are entitled for a compensation of Rs.2,25,000/- as claimed by them.

7. Thus, the compensation payable to the appellants 1 and 2/claimants 1 and 2 is enhanced to Rs.2,25,000/- (Rupees two lakhs twenty five thousand only) from Rs.1,52,000/-. The appellants 1 and 2/claimants 1 and 2 are entitled for interest at the rate of 7.5% per annum on the enhanced amount of compensation from the date of petition till the date of realization. There is no change in the other terms and conditions imposed by the Court below.

8. Accordingly, this appeal is partly allowed modifying the order, dated 14.09.2007, passed in O.P.No.2742 of 2005 by the Court below, enhancing the compensation from Rs.1,52,000/- to Rs.2,25,000/- with interest at the rate of 7.5% per annum on the enhanced amount of compensation from the date of petition till realisation. The appellants 1 and 2/claimants 1 and 2 are entitled to share the enhanced compensation equally. On deposit of the compensation, the appellants 1 and 2/claimants 1 and 2 are permitted to withdraw the entire amount along with the accrued interest. There shall be no order as to costs.

9. Miscellaneous petitions pending, if any, in this appeal shall stand closed.

DR.JUSTICE SHAMEEM AKTHER

Date : 16.07.2018
AMD



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