

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

C.M.A.No.4054 OF 2004

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.1,12,000/- with proportionate costs and interest at 9% per annum from the date of petition till the date of realisation, as against a claim of Rs.2,50,000/- by the learned Chairman, Motor Accident Claims Tribunal – cum - District Judge, Vizianagaram (for short, “the Tribunal”) *vide* order, dated 25.05.2004, passed in M.O.P.No.671 of 2000.

2. Heard the submissions of the learned counsel appearing for the appellants/claimants and the learned Standing Counsel appearing for the New India Assurance Company Limited for respondent No.2. In spite of service of notice, there is no appearance on behalf of respondent No.1. Perused the material available on record.

3. Learned counsel for the appellants/claimants would contend that the deceased Yandrapu Venkatanaidu, who was aged 17 years, succumbed to the injuries suffered by him in a motor vehicle accident that occurred on 04.12.1999 due to the rash and negligent driving of the driver of lorry bearing No.MP 26 B 4778; that the Tribunal took only Rs.10,000/- towards annual notional income and granted Rs.1,10,000/- towards loss of dependency and an amount of Rs.2,000/- towards funeral expenses and in all, granted an amount of Rs.1,12,000/- with proportionate costs and interest at 9% per annum from the date of petition till the date of

realisation, as against a claim of Rs.2,50,000/-, which is meagre, and ultimately, prayed to enhance the compensation and allow the appeal as prayed for.

4. On the other hand, learned Standing Counsel appearing for New India Assurance Company Limited for respondent No.2 would contend that there is no policy of insurance obtained by the owner of the offending lorry bearing No.MP 26 B 4778; that the Tribunal rightly dismissed the claim against respondent No.2/Insurance Company and there are no circumstances to vary with the impugned order and ultimately, prayed to dismiss the appeal.

5. In view of the submissions made by the learned counsel for the appellants and the learned Standing Counsel appearing for the New India Assurance Company Limited for respondent No.2, the points that arise for determination are:

“1. Whether the appellants/claimants are entitled for enhancement of compensation as prayed? and

2. Whether the Tribunal is justified in dismissing the claim against respondent No.2/Insurance Company?”

6. **POINT No.1:-** There is ample evidence to believe that the deceased Yandrapu Venkatanaidu, aged 17 years, succumbed to the injuries in a motor vehicle accident on 04.12.1999 due to the rash and negligent driving of the driver of lorry bearing No.MP 26 B 4778. The only dispute is with regard to the enhancement of compensation and tagging the liability against respondent No.2/Insurance Company.

7. As per the evidence on record, the deceased Yandrapu Venkatanaidu was aged 17 years on the date of accident and the

Tribunal took his annual income as Rs.10,000/-, applied the multiplier “11” by taking into consideration the age of the parents of the deceased Yandrapu Venkatanaidu and awarded Rs.1,10,000/- towards loss of earnings and an amount of Rs.2,000/- towards funeral expenses. The deceased Yandrapu Venkatanaidu was studying Intermediate II year at that relevant point of time. Ex.A-3 – Intermediate I year Marks List of the deceased Yandrapu Venkatanaidu and Ex.A-2 – S.S.C. Marks List of the deceased Yandrapu Venkatanaidu substantiate that the deceased Yandrapu Venkatanaidu was pursuing his Intermediate studies. In view of the same, the notional income of the deceased Yandrapu Venkatanaidu can be taken as Rs.15,000/- per year. It is appropriate to refer to a decision in **Munnalal Jain and others v. Vipin Kumar Sharma and others**¹ wherein it is held that when the deceased is a bachelor, relevant multiplier applicable to his age group has to be taken into consideration and the age of the deceased is required to be taken into consideration to obtain a suitable multiplier. As per the decision rendered in **Sarla Verma v. Delhi Transport Corporation**², the suitable multiplier for the age of “17” is “18”. As the deceased Yandrapu Venkatanaidu was a bachelor, half of his income has to be deducted towards his personal expenses. Therefore, the loss of earnings caused to the claimants is $\text{Rs.15,000/-} / 2 \times 18 = \text{Rs.1,35,000/-}$. Thus, towards loss of earnings, the appellants are entitled for an amount of Rs.1,35,000/-. Further, the appellants are entitled for a sum of Rs.10,000/- towards funeral expenses and another Rs.10,000/-

¹ [2015(6) SCC 347]

² AIR 2009 SC 3104

towards loss of estate. In all, the appellants are entitled for a sum of Rs.1,55,000/- (Rupees one lakh fifty five thousand only) (i.e., Rs.1,35,000/- + Rs.10,000/- + Rs.10,000/-). The above calculation was made by taking into consideration the cost of living and the earning capabilities in the year 1999, which relates to the death of the deceased Yandrapu Venkatanaidu.

8. **POINT No.2:-** As far as dismissing the claim against respondent No.2/Insurance Company is concerned, there is no policy of insurance to the offending lorry bearing No.MP 26 B 4778. The Tribunal, having examined the entire evidence, recorded the said finding and the same is based on the evidence on record. The Tribunal rightly dismissed the claim against respondent No.2/Insurance Company and there are no circumstances to take a different view.

9. Accordingly, this appeal is allowed in part modifying the order, dated 25.05.2004, passed in M.O.P.No.671 of 2000 by the Tribunal, enhancing the compensation from Rs.1,12,000/- to Rs.1,55,000/- with interest at the rate of 7.5% per annum from the date of application till the date of realisation on the enhanced amount of compensation. The appellants/claimants, who are the parents of the deceased Yandrapu Venkatanaidu, are entitled to share the enhanced amount and interest thereon equally. There is no change in the other conditions or directions imposed by the Tribunal. On deposit of the compensation, the appellants/claimants are permitted to withdraw the entire amount along with the accrued interest. There shall be no order as to costs.

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

DR.JUSTICE SHAMEEM AKTHER

Date : 11.09.2018
AMD



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