

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3225 of 2005

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 27.04.2004 in O.P.No.109 of 2002 on the file of the XII Additional Chief Judge, City Civil Court (Fast Track Court), Hyderabad.

2. Heard the learned counsel for appellants-claimants, the learned counsel for 2nd respondent-Insurance Company and perused the record.

3. Learned counsel for the appellants-claimants would contend that the Tribunal granted compensation of Rs.65,000/- against the claim of Rs.1,00,000/- and prayed to enhance the same. In support thereof, he relied on the decision reported in *Mona Kumari Dokania v. Surender Kumar Singh and another*¹.

4. Learned counsel for the 2nd respondent-Insurance Company would contend that the Tribunal was justified in granting compensation of Rs.65,000/- to the claimants. The finding is based on evidence on record. There is nothing to take a different view and prayed to dismiss the appeal.

5. In view of the submissions made by both sides, the point for determination is, whether the appellants are entitled for enhancement of compensation?

¹ 2015 ACJ 1784

6. The deceased boy was 18 years old, who succumbed to the injuries, sustained by him in a road accident occurred on 02.12.2001 due to the rash and negligent driving of the driver of the van bearing No.AP 12 T 1919. There is no dispute with regard to the valid insurance of the offending vehicle with respondent No.2 on the date of occurrence of accident.

7. Learned counsel for the appellants would contend that following the aforesaid judgment, in the instant case also, the notional income and the multiplier is required to be taken and compensation over and above what has been claimed by the claimants is required to be awarded.

8. The decision relied on by the learned counsel for the appellant would indicate the same. The appellants-claimants have made a claim of Rs.1,00,000/- for the death of their child, who is aged 18 years. Therefore, the grant of compensation of Rs.65,000/- appears to be on lower side. In the circumstances of the case, the appellants are entitled for an amount of Rs.1,00,000/- compensation as claimed. It is not a case where compensation more than what has been claimed can be awarded.

9. Accordingly, this appeal is allowed modifying the order dated 27.04.2004 passed by the Tribunal in O.P.No.109 of 2002 enhancing the compensation from Rs.65,000/- to Rs.1,00,000/- with interest @ 7.5% per annum on the enhanced compensation from the date of petition till the date of deposit. On deposit of the compensation, the appellants-claimants are permitted to withdraw the entire amount with interest equally.

Miscellaneous Petitions pending, if any, shall stand closed.

Dr. SHAMEEM AKTHER, J

17th July, 2018
ssp

