

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2501 of 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity) is filed by the appellant/Ministry of Defence, Government of India, challenging the order, dated 02.03.2005, passed in M.V.O.P.No.52 of 2001 by the Chairman, Motor Accident Claims Tribunal-cum-I Additional Chief Judge, City Civil Court, Secunderabad ('the Tribunal', for brevity).

2. Heard the learned counsel for the respondents 1 to 3/claimants and perused the record. Despite listing the matter under the caption "For Orders", there is no representation on behalf of appellant-Ministry of Defence, Government of India. This appeal is of the year 2005. It underwent several adjournments. Hence, this appeal can be disposed of on merits basing on the material available on record, without waiting for the learned Counsel for the appellant-Ministry of Defence, Government of India, to advance arguments.

3. In the grounds of appeal, the appellant contended that the Tribunal did not appreciate the fact that no cause of action has arisen against the appellant for seeking compensation. The Trial Court, without appreciating the evidence on record in proper perspective, awarded a compensation of Rs.1,62,000/- with interest @ 9% per annum from the date of petition till the date of deposit in favour of the claimants, which is excessive, and ultimately prayed to allow the appeal by setting aside the order under challenge.

4. On the other hand, the learned counsel for the respondents 1 to 3/claimants would contend that the Tribunal had granted meagre compensation under conventional heads. The Tribunal did not grant any amount towards funeral expenses and ultimately prayed to enhance the compensation as claimed.

5. In view of the above submissions, the point that arises for determination in this appeal is whether the under challenge is liable to be set aside or modified ?

6. In view of the fact there is no appeal preferred by the claimants, the question of enhancement of the compensation awarded by the Tribunal does not arise. While dealing with the subject matter of the appeal, the Tribunal held that the deceased Abdul Rasheed died due to rash and negligent driving of driver of military truck bearing registration No.271-122907. The date of occurrence of the accident is 25.11.2000. As per the record, the deceased was aged 50 years on the date of the accident. He used to sell biscuits and khara on wholesale basis to kirana shops and hotels. The Tribunal, after analysing the entire evidence on record, fixed his monthly income at Rs.1,500/-, deducted 1/3rd thereof towards his personal expenses, and by applying multiplier '11', granted an amount of Rs.1,32,000/- towards loss of dependency. It also awarded an amount of Rs.15,000/- towards compensation for consortium and another Rs.15,000/- towards compensation for loss of estate. In all, the Tribunal granted an amount of Rs.1,62,000/- with interest @ 9% per annum from the date of petition till date of deposit. Grant of compensation of Rs.1,62,000/- with interest @ 9% per annum, for the death of a person aged 50 years, who was

an earning member to his dependants/claimants, is not excessive. The contentions raised on behalf of the appellants do not merit consideration. The appeal is devoid of merits and is liable to be dismissed.

7. In the result, the appeal is dismissed. There shall be no order as to costs of the appeal.

Miscellaneous Petitions pending, if any, in the appeal shall stand closed.

17th September, 2018
Bvv

Dr. SHAMEEM AKTHER, J

