

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER
CIVIL MISCELLANEOUS APPEAL No.3157 of 2004

JUDGMENT:

Aggrieved by the grant of compensation of Rs.2,52,400/- by the Chairman, Motor Accidents Claims Tribunal-cum-I Additional District Judge, Guntur ('the Tribunal' for brevity), vide order, dated 13.05.2004, passed in M.V.O.P.No.704 of 1999, as against the total claim of Rs.7,30,000/-, the claimants preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity) seeking enhancement of compensation.

2. Heard the submissions of Sri N.Subba Rao, learned counsel for the appellants-claimants, Smt. I.Mammu Vani, learned Standing Counsel for New India Assurance Company Limited representing the 2nd respondent and perused the record.

3. The learned counsel for the appellants-claimants would submit that the deceased-V.Srinivasa Reddy was 28 years old as on the date of accident and working in a dairy farm and earning Rs.2,000/- per month as salary besides commission. He was also having four acres of agricultural land and was deriving agricultural income of Rs.20,000/- per annum. There is oral and documentary evidence to substantiate the same. The Tribunal erroneously took the annual income of the deceased as Rs.1,800/- per month and did not take into consideration the income derived by the deceased from agriculture. Further, the Tribunal had taken the age of the deceased as 35 years as on the date of accident. The compensation granted by the Tribunal is very low and ultimately prayed to allow the appeal as prayed for.

4. On the other hand, the learned Standing Counsel for New India Assurance Company Limited representing the 2nd respondent would submit that the Tribunal had taken all the relevant factors into consideration and awarded just and reasonable amount towards compensation. There is nothing to take a different view and ultimately prayed to dismiss the appeal.

5. It is not in dispute that the deceased-V.Srinivasa Reddy died in a road accident that occurred on 28.05.1999 due to the rash and negligent driving of the driver of the lorry bearing registration No.AAT-9968. There is ample evidence to substantiate the same. Thus, the only question that arises for consideration in this appeal is whether the appellants-claimants, who are the wife, children and parents of the deceased-V.Srinivasa Reddy, are entitled for enhancement of compensation.

6. There is evidence of P.W.1, wife of the deceased, that the deceased was aged 28 years as on the date of accident and he was working for a dairy farm and earning Rs.2,000/- per month as salary, besides commission. As per the criminal case records produced before this Court, the age of the deceased as on the date of accident was 28 years. The Tribunal has not assigned any reasons for taking the age of the deceased as 38 years as on the date of accident, which is contrary to the evidence on record. Thus, this Court deems it appropriate to take the age of the deceased as 28 years as on the date of accident.

7. There is evidence on record that the deceased was working in a dairy farm at Challagulla and was getting salary of Rs.2,000/- per

month besides commission. Ex.A.7-Salary Certificate of the deceased reveals the said income. It is contended that the deceased was having four acres of agricultural land and was deriving Rs.20,000/- per annum towards agricultural income. The land left out by the deceased can be cultivated by his parents and the other family members. Hence, this Court is not inclined to include the agricultural income of the deceased for awarding compensation. Thus, this Court is inclined to take the monthly income of the deceased as Rs.2,000/- per month, which comes to Rs.24,000/- per annum. If $\frac{1}{3}^{\text{rd}}$ is deducted towards his personal expenses, the contribution of the deceased to the family comes to Rs.16,000/- per annum (Rs.24,000/- minus $\frac{1}{3}^{\text{rd}}$ of it). As per the judgment of the Apex court in case between Sarla Verma v. Delhi Transport Corporation¹, the appropriate multiplier applicable to the age of the deceased (28 years) is 17. Hence, the loss of dependency comes to Rs.2,72,000/- (Rs.16,000/- x 17). Thus, the appellants-claimants are entitled for Rs.2,72,000/- towards loss of dependency.

8. It is apt to refer to the recent decision of the Apex Court in National Insurance Co. Ltd., Vs. Pranay Sethi and others², wherein, it was 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.”

Taking into consideration the aforementioned decision of the Apex Court, this Court is inclined to grant Rs.40,000/- to the 1st appellant/1st claimant (wife) towards loss of consortium, Rs.15,000/- to the appellants-claimants towards loss of estate and another

¹ AIR 2009 SC 3104

² 2017 (6) ALD 170 (SC)

Rs.15,000/- towards funeral expenses. Thus, the appellants-claimants are entitled for a total compensation of Rs.3,42,000/- (Rupees three lakhs fourty two thousand only) (Rs.2,72,000/- + Rs.40,000/- + Rs.15,000/- + Rs.15,000/-). The Tribunal awarded interest at the rate of 6% per annum on the amount of compensation from the date of petition till realisation. Having regard to the facts and circumstances of the case, this Court is inclined to grant interest at the rate of 9% per annum on the total compensation from the date of petition till realisation.

9. Accordingly, this appeal is allowed in part modifying the order, dated 13.05.2004, passed by the Tribunal, enhancing the compensation from Rs.2,52,400/- to Rs.3,42,000/- with interest at the rate of 9% per annum from the date of petition till realisation. On deposit of the compensation, the appellants-claimants are permitted to withdraw the entire amount along with the accrued interest. The apportionment of compensation shall be as under:

1 st appellant (wife)	:	Rs.1,00,400/- (including loss of consortium of Rs.40,000/-
2 nd appellant (son)	:	Rs.60,400/-
3 rd appellant (son)	:	Rs.60,400/-
4 th appellant (mother)	:	Rs.60,400/-
5 th appellant (father)	:	Rs.60,400/-
TOTAL	:	Rs.3,42,000/-

Miscellaneous Petitions pending, if any, shall stand closed. No order as to costs.

04th June, 2018
Bvv

Dr. SHAMEEM AKTHER, J