THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3460 of 2005
and
Cross Objections (SR) No.28364 of 2006

JUDGMENT:-

Challenging the Order, dated 14.06.2005, passed in O.P.No.332 of 2001 by the Chairman, I Additional Motor Accident Claims Tribunal, Nizamabad, ('the Tribunal', for brevity), the Oriental Insurance Company Limited preferred M.A.C.M.A.No.3460 of 2005 seeking to set aside the impugned Order and the claimants preferred Cross Objections (SR) No.28364 of 2006 seeking enhancement of compensation.

2. Heard the learned counsel for both sides and perused the record. For clarity, the parties are hereinafter referred to as per their array before the Tribunal.

3. The learned Standing Counsel for the appellant in MACMA No.3460 of 2005 and 2nd respondent in Cross Objections (SR) No.28364 of 2006 (Insurance Company) would contend that the Tribunal had taken the age of the mother of the deceased for applying multiplier. The Tribunal had taken the monthly income of the deceased as Rs.3,822/- @ 147/- per day for 26 days, deducted 1/3rd of it towards personal expenses of the deceased, applied multiplier 13 (as applicable to the age of the mother of the deceased) and awarded an amount of Rs.3,97,400/- towards loss of dependency. The Tribunal added some amounts towards transportation and funeral expenses and ultimately granted an amount of Rs.4,00,000/- as compensation with interest @ 9%

per annum from the date of petition till the date of deposit, 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 Cross Objectors 1 to 3 in Cross Objections (SR) No.28364 of 2006/respondents 1 to 3 in MACMA No.3460 of 2005 (claimants) would contend that the Tribunal ought to have awarded Rs.5,00,000/- as compensation to the claimants, as claimed. There are no justifiable grounds to reduce the compensation. None of the contentions raised on behalf of the appellant-Insurance Company merits consideration and ultimately prayed to dismiss the appeal filed by the Insurance Company and enhance the amount of compensation as claimed.

5. It is the case of the claimants that the deceased was a Jeep driver and was earning Rs.6,000/- per month as salary and Rs.100/- per day as bata. The Tribunal disbelieved the same and took the daily income of the deceased as Rs.147/-, i.e., Rs.3,822/- per month (Rs.147/- x 26 days), deducted 1/3rd of it towards personal expenses of the deceased, applied multiplier 13 (as applicable to the age of the mother of the deceased) and awarded an amount of Rs.3,97,400/- towards loss of dependency. The Tribunal justified in taking the daily income of the deceased as Rs.147/-, i.e., Rs.3822/- per month (Rs.147/- x 26 days). Admittedly, the deceased was a bachelor as on the date of accident. Admittedly, the subject accident occurred on 09.10.2000. As per Ex.C.1-driving licence of the deceased, the

date of birth of the deceased was 22.06.1980, which means the deceased was aged 20 years, 3 months and 17 days as the date of accident. Hence, it can be safely concluded that the deceased was 20 years old as on the date of accident. As per the decision of the Apex Court in Munnalal Jain and others v. Vipin Kumar Sharma and others[1], when the deceased is a bachelor, relevant multiplier applicable to his age group has to be taken into consideration. As per the judgment of the Apex court in case between Sarla Verma v. Delhi Transport Corporation[2], the appropriate multiplier applicable to the age of the deceased (20 years) is '18'. When the monthly income of the deceased is taken as Rs.3,822/-, half of it is deducted towards personal expenses of the deceased and multiplier '18', as applicable to the age of the deceased as per the decisions cited above, is applied, there will not be much difference between the amount so computed and the amount awarded by the Tribunal under the head loss of dependency. The Tribunal granted Rs.500/- towards transport expenses and Rs.2,500/- towards funeral expenses. Over all, the grant of compensation of Rs.4,00,000/- by the Tribunal is just and reasonable in the facts and circumstances of the case.

6. The Tribunal granted interest at the rate of 9% per annum on the amount granted as compensation, from the date of petition till realisation. It is apt to refer to the decision of the Apex Court in Dharampal Vs. State Road Transport

[1] 2015 (6) Supreme Court Cases 347
[2] AIR 2009 SC 3104

Corporation[3], wherein, the Apex Court awarded interest at the rate of 7.5% per annum on the amount awarded as compensation. There are number of other citations, wherein, interest was awarded at the rate of 7.5% per annum on the amount awarded as compensation. In view of the same, awarding interest at the rate of 9% per annum on the amount awarded as compensation by the Tribunal is held excessive.

7. Accordingly, M.A.C.M.A.No.3460 of 2005 filed by the Insurance Company is allowed in part, modifying the Order, dated 14.06.2005, passed in O.P.No.332 of 2001 by the Tribunal, only to the extent of reducing rate of interest from 9% per annum to 7.5% per annum on the amount granted as compensation (Rs.4,00,000/-) from the date of petition till realisation. The other terms of the Order under challenge remain unaltered. Consequently, Cross Objections (SR) No.28364 of 2006 is dismissed. No costs.

Miscellaneous petitions pending, if any, stand closed.

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Dr. SHAMEEM AKTHER, J

07th August, 2018
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[3] MANU SC 7680 2008