

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3467 OF 2005

AND

CROSS OBJECTIONS (SR) No.52785 OF 2005

COMMON JUDGMENT:

M.A.C.M.A.No.3467 of 2005, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellant/the New India Assurance Company Limited, aggrieved by the grant of compensation of Rs.1,74,500/- with interest at the rate of 9% per annum from the date of petition till the date of realisation, as against a claim of Rs.3,00,000/-, to respondent Nos.1 and 2/claimants, by the learned Chairman, Motor Accident Claims Tribunal – cum – V Additional District Judge, Nizamabad (for short, “the Tribunal”) *vide* order, dated 29.04.2005, passed in O.P.No.439 of 2001 and the claimants preferred Cross Objections (SR) No.52785 of 2005 seeking enhancement of compensation.

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

3. Learned Standing Counsel for the New India Assurance Company Limited would contend that the deceased was 8 years old on the date of accident; that the Tribunal took the age of the mother of the deceased to be around 35 years and applied multiplier “17” and assessed an amount of Rs.1,70,000/- towards loss of dependency; that the Tribunal awarded an amount of Rs.4,500/- also towards the conventional heads and in total, awarded an amount of Rs.1,74,500/-, which is excessive; that the

interest at the rate of 9% per annum is also excessive and ultimately, prayed to set aside the impugned order and allow the appeal as prayed for.

4. On the other hand, learned counsel for the claimants filed Cross Objections (SR) No.52785 of 2005 and contended that the Tribunal granted an amount of Rs.1,74,500/-, as against a claim of Rs.3,00,000/-, which is meagre, and ultimately, prayed to enhance the compensation and allow the cross objections.

5. As per the evidence on record, there is no dispute that the deceased Shaik Ibrahim, aged 8 years, succumbed to injuries in a motor accident caused on 28.10.2000 due to the rash and negligent driving of the driver of lorry bearing No.AP-D-9495. The Tribunal took the age of the mother of the deceased as around 35, notional income of the deceased as Rs.15,000/- per annum, deducted 1/3rd thereof towards the personal expenses of the deceased and then, applied multiplier "17" and granted Rs.1,70,000/- to the claimants, who are the parents of the deceased, under the head of general damages for the death. The Tribunal further awarded an amount of Rs.2,000/- towards funeral expenses and an amount of Rs.2,500/- towards loss of estate and in all, granted Rs.1,74,500/- with interest at the rate of 9% per annum from the date of petition till the date of realisation.

6. In **National Insurance Co. Ltd., Vs. Pranay Sethi and others**¹, the Apex Court granted Rs.40,000/- towards loss of consortium, Rs.15,000/- towards loss of estate and Rs.15,000/- for funeral expenses. Considering the same, the claimants are

¹ 2017 (6) ALD 170 (SC)

entitled for an amount of Rs.15,000/- towards loss of estate and Rs.15,000/- for funeral expenses. Thus, the claimants are entitled for a sum of Rs.30,000/- under the said conventional heads besides Rs.1,70,000/- awarded by the Tribunal towards loss of dependency, in all, the claimants are entitled for a sum of Rs.2,00,000/- (Rupees two lakhs only) (i.e., Rs.1,70,000/- + Rs.30,000/-)

7. As regards rate of interest, it is apt to refer to the decision of the Apex Court in **Dharampal Vs. State Road Transport Corporation**², wherein, the Apex Court awarded interest at the rate of 7.5% per annum on the amount awarded as compensation. In the instant case, the Tribunal granted interest at the rate of 9% per annum, which is excessive. Hence, the rate of interest awarded by the Tribunal is reduced from 9% per annum to 7.5% per annum.

8. Accordingly, the compensation awarded to the claimants is enhanced from Rs.1,74,500/- to Rs.2,00,000/-. The rate of interest payable throughout i.e., from the date of application till the date of realisation is 7.5% per annum. The claimants 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 claimants are permitted to withdraw the entire amount along with the accrued interest equally.

9. In the result, M.A.C.M.A.No.3467 of 2005 filed by the New India Assurance Company Limited and Cross Objections (SR)

² MANU SC 7680 2008

No.52785 of 2005 filed by the claimants are partly allowed. There shall be no order as to costs.

10. Miscellaneous petitions pending, if any, in these appeals shall stand closed.

DR.JUSTICE SHAMEEM AKTHER

Date : 24.07.2018
AMD



THE HON'BLE DR.JUSTICE SHAMEEM AKTHER



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Date: 24.07.2018

AMD