

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3198 OF 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellants/claimants aggrieved by the grant of compensation of Rs.2,41,000/- as against a claim of Rs.6,00,000/- by the learned I Additional District Judge – cum - Chairman, Motor Accident Claims Tribunal, Chittoor (for short, “the Tribunal”) *vide* order, dated 17.08.2005, passed in M.V.O.P.No.428 of 2001.

2. Heard the submissions of the learned counsel appearing for the appellants/claimants and the learned Standing Counsel for the National Insurance Company Limited appearing for respondent No.2, and perused the record.

3. Learned counsel for the appellants/claimants would contend that the Tribunal granted compensation of Rs.2,41,000/- with interest at the rate of 9% per annum from the date of petition till the date of realization on account of the death of one S.Suresh Naidu, who died in a motor accident that occurred on 17.09.2001, (hereinafter, referred to as the “deceased”) and the same is meagre; that the Tribunal has not granted adequate compensation towards loss of consortium and other heads; that the Tribunal has also not made any hike in the future earnings of the deceased and ultimately, prayed to enhance the compensation and allow the appeal as prayed for.

4. On the other hand, learned Standing Counsel for the National Insurance Company Limited appearing for respondent

No.2 would contend that the Tribunal had taken all the factors into consideration and rightly assessed the compensation payable on all heads at Rs.2,41,000/-, which is just and reasonable; that there are no circumstances to interfere with the same and ultimately, prayed to dismiss the appeal.

5. In view of the submissions made by both the counsel, the short point that falls for determination is:

“Whether the appellants/claimants are entitled for enhancement of compensation?”

6. **POINT:-** The appellants/claimants are the dependants of the deceased S.Suresh Naidu, who died in a motor accident that occurred on 17.09.2001 due to the rash and negligent driving of the driver of the lorry bearing No.ADD 3839. There is no dispute with regard to his death and occurrence of the accident due to the rashness and negligence of the said lorry driver. The only dispute is with regard to enhancement of compensation. The Tribunal, while dealing with the subject matter of the O.P., held that the deceased was 26 years old as on the date of the accident and his annual income was Rs.18,000/-, took multiplier “18” and after deducting 1/3rd amount towards the expenses of the deceased, awarded an amount of Rs.2,16,000/- towards loss of dependency, Rs.10,000/- towards loss of consortium to the 1st claimant, another Rs.10,000/- towards loss of estate and Rs.5,000/- towards funeral expenses, and in all, granted an amount of Rs.2,41,000/-.

7. As per the judgment of the Apex Court in case between **Sarla Verma v. Delhi Transport Corporation**¹, when there are four dependants, 1/4th amount is liable to be deducted towards personal expenses. It is contended that the deceased was working in Nandi Bar & Restaurant, Chittoor and getting a salary of Rs.2,500/- per month. No employee of the said Bar & Restaurant was examined. As the accident pertains to the year 2001, the salaries relevant in those days have to be taken. Taking the annual income of the deceased at Rs.18,000/- cannot be faulted with since the accident relates to the year 2001. There is nothing wrong in taking the annual income of the deceased at Rs.18,000/- per annum. If 1/4th amount of it ie., Rs.4,500/- is deducted and calculated, the compensation payable towards loss of dependency comes to Rs.2,43,000/- (Rs.18,000/- - Rs.4,500/- = Rs.13,500/- x 18).

8. It is apt to refer to the recent decision of the Apex Court in **National Insurance Co. Ltd., Vs. Pranay Sethi and others**², 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 Rs.15,000/- towards funeral expenses.

¹ AIR 2009 SC 3104

² 2017 (6) ALD 170 (SC)

9. Thus, the appellants/claimants are entitled for a total compensation of Rs.3,13,000/- (Rupees three lakhs and thirteen thousand only) (Rs.2,43,000/- + Rs.40,000/- + Rs.15,000/- + Rs.15,000/-) with interest at the rate of 7.5% per annum from the date of application till the date of realization only on the enhanced amount of compensation.

10. Accordingly, this appeal is allowed in part modifying the order, dated 17.08.2005, passed in M.V.O.P.No.428 of 2001 by the Tribunal, enhancing the compensation from Rs.2,41,000/- to Rs.3,13,000/- with interest at the rate of 7.5% per annum only on the enhanced amount of compensation i.e., Rs.72,000/- from the date of petition till realisation. The 1st appellant/1st claimant, who is the wife of the deceased, is entitled to 50% of the enhanced compensation i.e., Rs.36,000/- and interest thereon. The other appellants/claimants 2 to 4 are entitled to share the remaining amount i.e., Rs.36,000/- and interest thereon equally. There is no change in the other conditions or directions imposed by the Tribunal. On deposit of the compensation, the appellants/claimants are permitted to withdraw the entire amount along with the accrued interest. There shall be no order as to costs.

11. Miscellaneous petitions pending, if any, in this appeal shall stand closed.

DR.JUSTICE SHAMEEM AKTHER

Date : 05.07.2018
AMD

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