

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.1917 OF 2005

JUDGMENT:

Aggrieved by the award of Rs.2,50,400/- as compensation by order, dated 03.05.2005, passed in M.V.O.P.No.253 of 2003 on the file of Chairman, Motor Accident Claims Tribunal – cum – III Additional District Judge, East Godavari at Kakinada, ('the Tribunal', for brevity), the appellants - claimants preferred the present appeal, under Section 173 of the Motor Vehicles Act, 1988, seeking enhancement of compensation.

2. Heard learned counsel for the appellants-claimants and the learned Standing Counsel for respondent No.3 – Insurance Company. Perused the record.

3. Learned counsel for the appellants-claimants would contend that the Tribunal granted only Rs.2,50,400/- as compensation and the same is on lower side. The Tribunal had taken the income of the deceased as Rs.1,800/- per month, though the deceased was doing Ghee business and earning Rs.6,000/- per month. The Tribunal has not granted just compensation under conventional heads and ultimately, prayed to enhance the compensation.

4. On the other hand, learned Standing Counsel for respondent No.3 – Insurance Company would contend that the Tribunal had rightly granted the compensation, which is just and reasonable. There

are no circumstances to interfere with the same and ultimately, prayed to dismiss the appeal.

5. Under these circumstances, the point for determination is whether the appellants – claimants are entitled to enhancement of compensation.

6. There is no dispute with regard to the death of Uppala Nageswara Rao @ Nagabhushanam in a road accident, which occurred on 17.05.2003 due to rash and negligent driving of the Ambassador car bearing No.OR-07-G-9838. The only dispute is with regard to the assessment and grant of compensation.

7. The Tribunal had taken the monthly income of the deceased Nagabhushanam as Rs.1,800/- and deducting 1/3rd therefrom towards his personal expenses and applying multiplier '16', awarded Rs.2,30,400/- towards loss of dependency.

8. From a perusal of the record, it appears that the present M.V.O.P. was disposed of along with M.V.O.P.No.487 of 2003 filed by the parents and unmarried sister of the deceased. There were six dependants on the deceased. Hence, as per the judgment of the Honourable Apex Court in **Sarla Verma v. Delhi Transport Corporation**¹, when the dependants are six in number, the deduction permissible is 1/4th. When 1/4th is deducted from the earnings of the deceased, the contribution of the deceased to the family works out to

¹ AIR 2009 SC 3104

Rs.16,200/- per annum ((Rs.1,800/- x 12=Rs.21,600/-) - 1/4th of it (Rs.5,400/-)). When multiplier '16' is applied to the said amount, the loss of dependency works out to Rs.2,59,200/- (Rs.16,200x16). The same is rounded off to Rs.2,60,000/-.

9. Further, the Tribunal had granted Rs.15,000/- towards loss of consortium and Rs.5,000/- towards transportation of dead body and funeral expenses.

10. With regard to grant of compensation under conventional heads, it is apt to refer to the recent decision of the Honourable 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.”

11. Hence, in view of the above decision, the amount of Rs.15,000/- granted by the Tribunal towards loss of consortium is enhanced to Rs.40,000/-. The amount of Rs.5,000/- granted towards transportation of dead body and funeral expenses is also on lower side. Hence, an amount of Rs.15,000/- is granted towards funeral expenses. The appellants are also entitled to another sum of Rs.15,000/- towards loss of estate. Thus, the total compensation works out to Rs.3,30,000/- (Rs.2,60,000/- + Rs.70,000).

² 2017 (6) ALD 170 (SC)

12. In the result, the appeal is allowed in part enhancing the compensation from Rs.2,50,400 /- to Rs.3,30,000/- (Rs.2,60,000/- + Rs.70,000/-). The enhanced amount carries interest at the rate of 7.5% per annum from the date of petition till the date of realization. Appellant No.1 – claimant No.1 is entitled to 50% of the enhanced amount. Appellant Nos.2 and 3 are entitled to equal share in the remaining 50% of the enhanced amount. On deposit of the enhanced compensation amount, appellants are permitted to withdraw the said amount. The other terms of the order under challenge remain unaltered.

Miscellaneous Petitions, if any, pending in this appeal shall stand closed. There shall be no order as to costs.

July 03, 2018.
MD

Dr. SHAMEEM AKTHER, J

