THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2007 of 2005

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act'), by the appellants-claimants aggrieved by the order dated 12.04.2005 in M.V.O.P.No.209 of 2003 on the file of the Motor Accident Claims Tribunal-cum-III Additional District Judge, Tirupati (for short 'the Tribunal').

2. Though the matter is posted 'for orders', there is no representation for the appellants. This appeal is of the year 2005. It underwent several adjournments. Hence, this appeal can be disposed of on merits basing on the material available on record.

3. This appeal is filed contending that the Tribunal granted meagre compensation. The Tribunal had not taken correct earnings of the deceased as well as age. The Tribunal had not granted reasonable compensation on conventional heads and ultimately prayed to enhance the compensation.

4. Learned counsel for the respondent-Insurance company would contend that the Tribunal had taken all the facts and circumstances into consideration and granted just and reasonable compensation. There are no circumstances to interfere with the same and ultimately prayed to dismiss the appeal.

5. Now the point for determination is, whether the appellants-claimants are entitled for enhancement of compensation?

6. There is no dispute with regard to the deceased-Venkatesu succumbed to the injuries sustained by him in a motor accident occurred on 27.04.2002 due to the rash and negligent driving of driver of lorry bearing No.AP-31V-3399 driven by its driver belonging to respondent No.1. There is also no dispute with regard to valid insurance of the offending lorry with respondent No.2-insurance company.

7. The contention of the claimants is that the deceased was working as rice mill driver in Sriram Rice Mill at Chinna Pandur village of Varadaiahpalem and earning an amount of Rs.3,600/- per month. There are six dependants on the deceased. The Tribunal had taken the daily income of the deceased as Rs.50/-, which comes to Rs.18,000/- as annual income, deducted 1/3rd towards personal expenses, applied multiplier '17' and assessed Rs.2,04,000/- towards loss of dependency. The Tribunal also granted Rs.10,000/- towards loss of consortium and Rs.2,000/- towards funeral expenses. In all, the Tribunal granted compensation of Rs.2,16,000/- with interest @ 9% per annum.

8. Since the deceased is a labourer, aged 30 years, the Tribunal ought to have taken his monthly earnings as Rs.2,000/-. Since there are six dependents on the deceased, 1/4th is liable to be deducted as personal expenses. So, the contribution of deceased to claimants comes to Rs.1,500/- per month and Rs.18,000/- per annum. The suitable multiplier for the age of 30 is '17'. So, the appellants are entitled to Rs.3,06,000/- towards compensation for loss of dependency.

9. Further in view of the decision rendered in *National Insurance Co. Ltd., Vs. Pranay Sethi and others*[1], the appellants are entitled for Rs.70,000/- towards conventional heads. Totally, the appellants are entitled for a compensation of Rs.3,76,000/- with interest @ 7.5% per annum on the enhanced compensation.

10. Accordingly, the appeal is allowed in part modifying the order, dated 12.04.2005 passed by the Tribunal in M.V.O.P.No.209 of 2003, enhancing the compensation from Rs.2,16,000/- to Rs.3,76,000/- with interest @ 7.5% per annum on the enhanced amount of compensation from the date of petition till the date of deposit. On such deposit of enhanced compensation, 1st claimant/wife is entitled for an amount of Rs.75,000/-. Insofar as the remaining enhanced amount is concerned, all the other claimants are entitled to share equally. Entire compensation amount is permitted to withdraw.

The Miscellaneous Petitions, if any, pending shall stand closed.

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Dr. SHAMEEM AKTHER, J

Date: 24.07.2018
ssp

[1] 2017 (6) ALD 170 (SC)