

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2590 of 2005

JUDGMENT:

Aggrieved by the grant of compensation of Rs.2,14,200/- as against a claim of Rs.3,00,000/- by the Motor Accident Claims Tribunal-cum-I Additional District Judge, Medak at Sangareddy ('the Tribunal' for brevity), vide order, dated 02.07.2004, passed in O.P.No.138 of 2002, the claimants preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity) seeking enhancement of compensation.

2. Heard both sides. Perused the record.

3. The learned counsel for the appellants-claimants would contend that the Tribunal granted a meagre compensation of Rs.2,14,200/- as against a total claim of Rs.3,00,000/-, for the death of the deceased-Mohd.Afzal, who died in a motor accident occurred on 07.01.2002, due to rash and negligent driving of the driver of the RTC bus bearing registration No.AP-10-Z-9457. Further, the Tribunal granted lesser amounts on different heads. The Tribunal assessed the loss of dependency by applying wrong multiplier to the age of the deceased and ultimately prayed to enhance the compensation as claimed.

4. On the other hand, the learned Standing Counsel for the respondent-APSRTC would contend that though the claimants contended that the deceased was a driver of heavy vehicles, no driving licence was filed to substantiate the same. Further, the

Tribunal had taken all the relevant factors into consideration and awarded just and reasonable compensation. There are no circumstances to interfere with the impugned order and ultimately prayed to dismiss the appeal by confirming the order under challenge.

5. It is not in dispute that the deceased-Mohd. Afzal died in a motor accident occurred on 07.01.2002, due to rash and negligent driving of the driver of the RTC bus bearing registration No.AP-10-Z-9457. The point that arises for consideration in this appeal is whether the appellants-claimants are entitled for enhancement of compensation as claimed.

6. As per the evidence of P.W.1 (wife of the deceased) and the criminal case record, the deceased was 40 years old as on the date of the subject accident. Though the claimants contended that the deceased was a driver of heavy vehicles, they did not choose to file his driving licence before the Court to substantiate the same. On the date of the subject accident, the deceased was driving an auto. Considering the same, the Tribunal took the monthly income of the deceased as Rs.1,800/-, deducted $\frac{1}{3}^{\text{rd}}$ of it towards personal expenses of the deceased, applied multiplier '12.79' to the age of the deceased (40 years) and granted an amount of Rs.1,84,176/- towards loss of dependency. The Tribunal further granted an amount of Rs.15,000/- to the 1st appellant-1st claimant (wife of the deceased) towards loss of consortium and Rs.15,000/- in favour of the appellants-claimants towards loss of estate. In all, the Tribunal granted a compensation of Rs.2,14,176/- rounded off to

Rs.2,14,200/- in with interest @ 9% per annum from the date of petition till realisation, in favour of the appellants-claimants.

7. The Tribunal, having analysed the evidence on record, rightly took the monthly income of the deceased as Rs.1,800/-. The Tribunal deducted 1/3rd of the monthly income of the deceased towards his personal expenses. Since there are 12 dependants on the deceased, 1/5th of the monthly income has to be deducted towards his personal expenses, as per the decision of the Apex Court in *Sarla Verma v. Delhi Transport Corporation*¹. Further, as per the said decision, the appropriate multiplier applicable to the age of the deceased is '15', whereas the Tribunal applied multiplier '12.79'. In view of the same, the total loss of dependency would come to Rs.2,59,200/- (Rs.1,800/- x 1/5 x 12 x 15). Further, this Court deems it appropriate to grant an amount of Rs.20,000/- towards loss of consortium to the 1st appellant-1st claimant (wife of the deceased), Rs.15,000/- towards loss of estate and Rs.5,800/- towards funeral expenses. In all, the appellants-claimants are entitled for a compensation of Rs.3,00,000/- as claimed.

8. Accordingly, the appeal is allowed, modifying the order, dated 02.07.2004, passed in M.V.O.P.No.138 of 2002 by the Tribunal, enhancing the compensation from Rs.2,14,200/- to Rs.3,00,000/- as claimed. The enhanced amount of compensation carries interest at the rate of 7.5% per annum from the date of petition till realisation. The 1st appellant-1st claimant is entitled for half of the enhanced compensation, the appellants 2 to 12/claimants 2 to 12 are entitled to share the remaining half of the

¹ AIR 2009 SC 3104

enhanced compensation equally and they are permitted to withdraw the same accordingly, with interest accrued thereon, on deposit. Other terms of the Order under challenge remain unaltered. No costs.

Pending Miscellaneous Petitions, if any, shall stand closed.

Dr. SHAMEEM AKTHER, J

17th September, 2018
Bvv

