THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2699 of 2005

JUDGMENT:

Aggrieved by the grant of compensation of Rs.4,51,200/- as against a claim of Rs.8,00,000/- by the Chairman, Motor Accident Claims Tribunal-cum-District Judge, Anantapur ('the Tribunal' for brevity), vide order, dated 15.07.2005, passed in O.P.No.200 of 2001, the claimants preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity) seeking enhancement of compensation.

2. Heard the learned counsel for both sides and perused the record.

3. The learned counsel for the appellants-claimants would submit that Tribunal ought to have taken the gross salary of the deceased into consideration instead of his net salary. The Tribunal granted lesser amount towards other conventional heads and ultimately prayed to enhance the compensation as claimed.

4. On the other hand, Sri A.Rama Rao, the learned Standing Counsel for the sole respondent-APSRTC would contend that the Tribunal rightly taken the net salary of the deceased into consideration and granted just and reasonable amount as compensation. There are no circumstances to interfere with the same and ultimately prayed to dismiss the appeal by confirming the Order under challenge.

5. In view of the above submissions, the only point that arises for consideration in this appeal is whether the appellants-claimants are entitled for enhancement of compensation as claimed.

6. It is not in dispute that the deceased-V.Ramachandrudu, died in a motor accident occurred on 25.09.2000 due to rash and negligent driving of the driver of the APSRTC bus bearing registration No.AP-09-Z-8926. The only point that arises for consideration in this appeal is whether the appellants-claimants are entitled for enhancement of compensation.

7. There is evidence of P.W.1 (wife of the deceased) to the effect that the deceased was aged 43 years old as on the date of accident; that he was working as Fireman in A.P. Fire Office, Uravakonda; that he was earning Rs.5,885/- per month and used to contribute the same to her and the other dependants, who are six in number. Ex.A.6 is the Salary Certificate of the deceased. Ex.A.7 is the office copy of the notice, dated 24.04.2001, issued to the respondent-APSRTC to pay compensation and Ex.A.8 is the postal acknowledgement showing service of the said notice on the respondent-APSRTC. As per Ex.A.6, the deceased was drawing a net salary of Rs.4,103/- per month, after deductions. The Tribunal took the same into consideration, deducted 1/3rd of it towards the personal expenses of the deceased and by applying multiplier ‘13’, granted an amount of Rs.4,21,200/- towards loss of dependency. Further, the Tribunal granted an amount of Rs.15,000/- towards to the wife of the deceased towards loss of consortium and another Rs.15,000/- towards loss of love and affection for the death of the deceased. In all, the Tribunal granted a compensation of Rs.4,51,200/- with

interest @ 9% per annum from the date of petition till realisation and apportioned the same between the appellants-claimants.

8. As per Ex.A.3-Certified copy of Post Mortem Certificate, the deceased was 43 years old as on the date of accident. Though the appellants-claimants contended that the deceased was 43 years old as on the date of accident, the Tribunal had taken the age of the deceased as 45 and applied multiplier '13'. The suitable multiplier applicable to the age of the deceased as per the decision of the Apex Court in the case between Sarla Verma v. Delhi Transport Corporation[1] is '14' (as the deceased was 45 years old as on the date of accident). Some amount is required to be deducted towards Income Tax. So, no further hike in the salary is taken. Under these circumstances, this Court deems it appropriate to take the monthly income of the deceased as Rs.5,885/-, i.e., Rs.70,620/- per annum. Since there are six dependants on the deceased, 1/4th is liable to be deducted towards personal expenses of the deceased. So, the annual loss of dependency would come to Rs.52,965/- (Rs.70,620/- minus 1/4th of it). As stated above, the appropriate multiplier applicable to the age of the deceased is 14. So, the total loss of dependency would come to Rs.7,41,510/- (Rs.52,965/- x 14) rounded off to Rs.7,42,000/-. Further, this Court deems it appropriate to grant an amount of Rs.28,000/- to the 2nd appellant/2nd claimant (wife of the deceased) towards loss of consortium, Rs.15,000/- to the appellants-claimants towards loss of estate and Rs.15,000/- towards funeral expenses. Thus, the appellants-claimants are entitled for a total compensation of Rs.8,00,000/- (Rupees eight lakhs only) (Rs.7,42,000/- + Rs.28,000/- + Rs.15,000/- + Rs.15,000/-). The

[1] AIR 2009 SC 3104

Tribunal awarded interest at the rate of 9% per annum on the amount of compensation from the date of petition till realisation. Having regard to the facts and circumstances of the case, this Court is inclined to grant interest at the rate of 7.5% per annum on the enhanced amount of compensation from the date of petition till realisation.

9. Accordingly, this appeal is allowed, modifying the order, dated 15.07.2005, passed in O.P.No.200 of 2001 by the Tribunal, enhancing the compensation from Rs.4,51,200/- to Rs.8,00,000/- with interest at the rate of 7.5% per annum on the enhanced amount of compensation from the date of petition till realisation. On deposit of the enhanced compensation, the appellants-claimants are permitted to withdraw the entire amount along with the interest accrued thereon. Other terms of the Order under challenge remain unaltered. The apportionment of the enhanced compensation shall be as under:

1st appellant (mother)	:	Rs.49,760/-
2nd appellant (wife)	:	Rs.1,00,000/-
3rd appellant (daughter)	:	Rs.49,760/-
4th appellant (son)	:	Rs.49,760/-
5th appellant (son)	:	Rs.49,760/-
6th appellant (daughter)	:	Rs.49,760/-
TOTAL	:	Rs.3,48,800/-

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

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Dr. SHAMEEM AKTHER, J

23rd July, 2018
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