THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2644 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.2,10,000/- as against a claim of Rs.3,00,000/- by the learned Chairman, Motor Accident Claims Tribunal – cum - District Judge, East Godavari District at Rajahmundry (for short, "the Tribunal") *vide* order, dated 24.11.2004, passed in O.P.No.1186 of 2002.

2. Heard the submissions of the learned counsel appearing for the appellants/claimants and the learned Standing Counsel appearing for the Oriental Insurance Company Limited for respondent No.3, and perused the material available on record.

3. Learned counsel for the appellants/claimants would contend that the Tribunal granted a compensation of Rs.2,10,000/- as against a claim of Rs.3,00,000/- with interest at the rate of 6% per annum from the date of petition till deposit and costs pro rata for the death of one B.Venkata Ramana (hereinafter, referred to as "the deceased"), who died in a motor accident that occurred on 01.03.2002, and the same is meagre; that there are five dependants on the deceased and therefore, the Tribunal ought to have deducted $1/4^{th}$ amount from the income of the deceased towards his personal expenses instead of $1/3^{rd}$ amount; that the Tribunal had taken only an amount of Rs.15,000/- as annual notional income of the deceased; that the deceased was a Cleaner and earning Rs.2,000/- per month and Rs.1,000/- as batta, but

the Tribunal had taken less amount towards the monthly earnings of the deceased and further, the Tribunal had not granted just and reasonable compensation under other conventional heads and ultimately, prayed to enhance the compensation and allow the appeal as prayed for.

4. On the other hand, learned Standing Counsel appearing for the Oriental Insurance Company Limited for respondent No.3 would contend that the Tribunal had taken the annual income of the deceased as Rs.15,000/-, rightly deducted 1/3rd thereof towards his personal expenses and also rightly granted amounts on conventional heads and in all, granted a just and reasonable compensation of Rs.2,10,000/-; that there are no circumstances to enhance the compensation awarded by the Tribunal and ultimately, prayed to dismiss the appeal.

5. In view of the submissions made by the learned counsel for the appellants and the learned Standing Counsel appearing for the Oriental Insurance Company Limited, the short point that falls for determination is:

> ***"Whether the appellants/claimants are entitled for enhancement of compensation as prayed?"***

6. **POINT:-** There is no dispute with regard to the death of the deceased in a motor accident that occurred on 01.03.2002 due to the rash and negligent driving of the drivers of lorries bearing Nos.AP 16X 1674 and AP 37T 4217. The only dispute is with regard to the assessment and payment of compensation. The Tribunal, while dealing with the subject matter, held that the deceased was a Cleaner of the lorry, took Rs.15,000/- as annual

income and deducted 1/3rd thereof towards his personal expenses and assessed an amount of Rs.1,80,000/- payable towards loss of dependency, but restricted the same to Rs.1,50,000/-, as claimed by the claimants. The Tribunal awarded Rs.30,000/- towards loss of estate, Rs.10,000/- towards loss of love and affection, Rs.5,000/- towards mental agony, Rs.10,000/- towards medical expenses, and an amount of Rs.10,000/- to claimant No.1 towards loss of consortium.

7. In the circumstances, including future hike, the Tribunal ought to have taken the annual income of the deceased as Rs.17,000/-. The Tribunal had deducted more amount towards the personal expenses of the deceased. As there are five dependants, 1/4th thereof i.e., Rs.4,250/- is liable to be deducted towards personal expenses. Then, the annual loss of dependency comes to Rs.12,750/-. For the age of the deceased i.e., 25 years, the suitable multiplier is "18" as per **Sarla Verma v. Delhi Transport Corporation**[1]'s case. So the loss of dependency caused to the claimants comes to Rs.12,750 x 18 = Rs.2,29,500/- and the same is rounded to Rs.2,30,000/-.

8. Claimant No.1 is entitled for a sum of Rs.40,000/- towards loss of consortium. The claimants are entitled for a sum of Rs.10,000/- towards loss of estate, Rs.10,000/- towards funeral expenses and Rs.10,000/- for hospital charges, in all, the claimants are entitled for a sum of Rs.3,00,000/-. (Rupees three lakhs only) (i.e., Rs.2,30,000/- + Rs.40,000/- + Rs.10,000/- + Rs.10,000/- + Rs.10,000/-) with interest at the rate of 7.5% per

[1] AIR 2009 SC 3104

annum from the date of application till the date of realization on the entire amount of compensation.

9. Accordingly, this appeal is allowed in part modifying the order, dated 24.11.2004, passed in O.P.No.1186 of 2002 by the Tribunal, enhancing the compensation from Rs.2,10,000/- to Rs.3,00,000/- with interest at the rate of 7.5% per annum from the date of application till the date of realization on the entire amount of compensation. Out of the enhanced compensation, the 1st appellant/1st claimant, who is the wife of the deceased, is entitled to Rs.50,000/- and interest thereon. The other appellants/claimants 2 to 5 are entitled to share the remaining enhanced amount 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 as indicated. There shall be no order as to costs.

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

DR.JUSTICE SHAMEEM AKTHER

Date : 26.07.2018
AMD

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