

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2621 of 2005

JUDGMENT:

Aggrieved by the grant of compensation of Rs.3,35,000/- as against a claim of Rs.6,00,000/- by the Motor Accident Claims Tribunal-cum-I Additional District Judge, Mahabubnagar ('the Tribunal' for brevity), vide order, dated 23.07.2005, passed in O.P.No.22 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 the learned counsel for the 2nd respondent-Insurance Company and perused the record. Despite listing this matter under the caption "For Orders", there is no representation for the appellants-claimants. This appeal is of the year 2005. Hence, this appeal can be disposed of on merits, basing on the material available on record, without waiting for the learned counsel for the appellants-claimants to advance arguments.

3. In the grounds of appeal, the appellants-claimants contended that the Tribunal took the earnings of the deceased-V.Chandrasekhar as Rs.75/- per day, which is meagre. The deceased was a business man. Further, the Tribunal had not taken into consideration Ex.A.9-Firm Registration Certificate, while granting compensation. Grant of compensation of Rs.3,35,000/- with interest @ 7.5% per annum from the date of petition till realisation as against a claim of Rs.6,00,000/- is meagre and ultimately prayed to enhance the compensation as claimed.

4. On the other hand, the learned Standing Counsel for the 2nd respondent-Insurance Company would contend that the Tribunal took the correct age of the deceased as 33 years, applied correct multiplier '17' to the of the deceased and granted a compensation of Rs.3,35,000/- with interest @ 7.5% per annum from the date of petition till realisation, which is just and reasonable. There are no circumstances to enhance the compensation and ultimately prayed to dismiss the appeal by confirming the order under challenge.

5. It is not in dispute that the deceased-V.Chandrasekhar died in a motor accident occurred on 19.07.2001, due to rash and negligent driving of the driver of the lorry bearing registration No.CNR-3399. The point that arises for consideration in this appeal is whether the appellants-claimants are entitled for enhancement of compensation as claimed.

6. The Tribunal, after analysing the entire evidence on record, held that the 3rd appellant-3rd claimant (father of the deceased), who was doing business, had sufficient means and therefore, he is not entitled for compensation. The Tribunal rightly held so. As per the evidence on record, the deceased was 33 years old and was a businessman, as on the date of the subject accident. While dealing with the relevancy of Ex.A.9-Firm Registration Certificate, the Tribunal recorded a finding that there is discrepancy with regard to the place of conduct of business in Ex.A.9 and in the pleadings, and held that Ex.A.9 is contrary to the version of the appellants-claimants that the deceased established the business ten years back, i.e., in or about 1990. Having considered the totality of the circumstances, the Tribunal took the earnings of the deceased as Rs.75/- per day and

held that he was maintaining his family. As per the evidence on record, it can be safely concluded that the deceased was doing business as on the date of subject accident. In view of the same, some hike is required to be taken. Since the subject accident occurred on 19.07.2001, the earning capabilities of the persons in those days are required to be taken into consideration. Thus, this Court deems it appropriate to take the monthly income of the deceased as Rs.3,000/-. Since there are three dependants on the deceased, $1/3^{\text{rd}}$ of it is liable to be deducted towards personal expenses of the deceased. As per the decision of the Apex Court in *Sarla Verma v. Delhi Transport Corporation*¹, the appropriate multiplier applicable to the age of the deceased (33 years) is '16'. Thus, the total loss of dependency would come to Rs.3,84,000/- (Rs.3,000/- x $1/3$ x 12 x 16). Further, this Court deems it appropriate to grant an amount of Rs.30,000/- to the 1st appellant-1st claimant towards loss of consortium, Rs.15,000/- towards loss of estate to the appellants-claimants and Rs.15,000/- towards funeral expenses. In all, the appellants-claimants are entitled for a compensation of Rs.4,44,000/- (Rs.3,84,000/- + Rs.30,000/- + Rs.15,000/- + Rs.15,000/-). The Tribunal granted interest @ 7.5% per annum on the amount awarded as compensation from the date of petition till realisation, which is just and reasonable.

7. Accordingly, this appeal is allowed in part, modifying the order, dated 23.07.2005, passed in O.P.No.22 of 2002, by the Tribunal, enhancing the compensation from Rs.3,35,000 to Rs.4,44,000/-. The enhanced amount of compensation carries interest @ 7.5% per annum from the date of application till realisation. The 1st appellant-

¹ AIR 2009 SC 3104

1st claimant is entitled for half of the enhanced compensation, the appellants 2 and 4/claimants 2 and 4 are entitled to share the remaining half of the enhanced compensation equally. The claimants are permitted to withdraw the same accordingly, with interest accrued thereon, on deposit. The other terms of the Order under challenge remain unaltered. No costs.

Miscellaneous Petitions pending, if any, shall stand closed.

Dr. SHAMEEM AKTHER, J

17th September, 2018
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