THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3763 of 2005

JUDGMENT:

Aggrieved by the grant of compensation of Rs.2,44,000/- as against a claim of Rs.5,00,000/- vide order, dated 26.09.2005, passed in O.P.No.705 of 2001 by the Chairman, Motor Accident Claims Tribunal-cum-I Additional District Judge, Ranga Reddy District at L.B.Nagar, Hyderabad ('the Tribunal', for brevity), 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 deceased-K.Srinivas Goud was 23 years old as on the date of the subject accident. He was having partnership in a Wine shop. The appellants-claimants filed Ex.A.8-Noukarnama to substantiate the same. The Tribunal erroneously took the multiplier applicable to the age of the father of the deceased (1st claimant) to assess the compensation under the head loss of dependency. The Tribunal took the monthly income of the deceased as Rs.3,000/- per month, which is meagre. The Tribunal granted a meagre compensation of Rs.2,44,000/- with interest @ 9% per annum from the date of petition till the date of payment as against a claim of Rs.5,00,000/- 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 had rightly taken the monthly income of the deceased, rightly made necessary deductions and awarded just and reasonable amount as compensation. 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-K.Srinivas Goud died in the subject accident occurred on 06.06.2001, due to rash and negligent driving of the driver of the offending lorry bearing registration No.AP-11-T-6759. The point that arises for determination in this appeal is whether the appellants-claimants are entitled for enhancement of compensation as claimed.

6. To substantiate the case of the appellants-claimants, the 1st appellant-1st claimant himself deposed as P.W.1, got examined P.W.2, P.W.3 and got marked Ex.A.1 to A.8. P.W.1 is the father of the deceased. He deposed about the occupation and monthly earnings of the deceased. Ex.A.8-Nowkarnama reveals that the deceased used to get a monthly salary of Rs.4,000/-. The evidence of P.W.2-B.Bhasker, who is the owner of the Wine shop in which the deceased used to work, substantiates the same. P.W.1 deposed that the deceased studied up to Intermediate II year. The Tribunal took the monthly income of the deceased as Rs.3,000/-, deducted half of the same towards personal expenses of the deceased, applied

multiplier '13' as applicable to the age of the father of the deceased and granted a compensation of Rs.2,34,000/- towards loss of dependency. The Tribunal further granted an amount of Rs.5,000/- towards loss of estate and another Rs.5,000/- towards funeral expenses. In all, The Tribunal granted a compensation of Rs.2,44,000/- with interest @ 9% per annum from the date of petition till the date of payment in favour of the appellants-claimants.

7. As the deceased was 23 years old as on the date of accident, it can be held that he was supporting his parents (appellants-claimants). In view of the same, the monthly income of the deceased can be taken as Rs.3,600/-. Since the deceased was a bachelor, half of his income is liable to be deducted towards his personal expenses. Thus, the monthly loss of dependency would come to Rs.1,800/-. As per the decision of the Apex Court in Munnalal Jain and others v. Vipin Kumar Sharma and others[1], when the deceased is a bachelor, relevant multiplier applicable to his age group has to be taken into consideration to assess the compensation for loss of dependency. As per the judgment of the Apex court in case between Sarla Verma v. Delhi Transport Corporation[2], the appropriate multiplier applicable to the age of the deceased (23 years) is '18'. Thus, the total loss of dependency would come to Rs.3,88,800/- (Rs.3,600/- x ½ x 12 x 18). Further, the appellants-claimants are also entitled for Rs.15,000/- towards

[1] 2015 (6) Supreme Court Cases 347
[2] AIR 2009 SC 3104

loss of estate and another Rs.15,000/- towards funeral expenses. In all, the appellants-claimants are entitled for a compensation of Rs.4,18,800/- (Rs.3,88,800/- + Rs.15,000/- + Rs.15,000/-) rounded off to Rs.4,19,000/-. The Tribunal granted interest @ 9% per annum from the date of petition till the date of payment on the compensation awarded. This Court deems it appropriate to grant interest @ 7.5% per annum on the enhanced amount of compensation from the date of petition till realisation.

8. Accordingly, this appeal is allowed in part, modifying the order, dated 26.09.2005, passed in O.P.No.705 of 2001 by the Tribunal, enhancing the compensation payable to the appellants-claimants from Rs.2,44,000/- to Rs.4,19,000/-. The enhanced amount of compensation carries interest @ 7.5% per annum from the date of petition till realisation. The appellants 1 and 2/claimants 1 and 2 (parents of the deceased) are entitled for the entire enhanced compensation with interest accrued thereon and on deposit, they are permitted to withdraw the same, equally. Other terms and conditions imposed by the Tribunal remain unaltered. No costs.

Miscellaneous Petitions pending, if any, shall stand closed.

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Dr. SHAMEEM AKTHER, J

20th September, 2018
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