

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.Nos.2815, 3383, 3384 & 3385 OF 2005

COMMON JUDGMENT:

Since the facts of the case, issues involved and the parties in all these appeals are one and the same, all these appeals are being disposed of by way of this common judgment.

2. Challenging the order, dated 10.11.2004, passed in O.P.No.107 of 2002 by the Chairman, Motor Accident Claims Tribunal – cum - Additional District Judge, Hindupur (for short, “the Tribunal”), the New India Assurance Company Limited preferred M.A.C.M.A.No.2815 of 2005 seeking to set aside the said award and the claimants in O.P.No.107 of 2002 preferred M.A.C.M.A.No.3385 of 2005 seeking enhancement of compensation. Challenging the orders, dated 10.11.2004, passed in O.P.Nos.110 of 2002 and 108 of 2002 by the Tribunal, the claimants preferred M.A.C.M.A.Nos.3383 of 2005 and 3384 of 2005 seeking enhancement of compensation.

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

M.A.C.M.A.Nos.2815 of 2005 & 3385 of 2005:-

4. Learned Standing Counsel for the appellant/Insurance Company in M.A.C.M.A.No.2815 of 2005 would contend that the Tribunal applied multiplier “20” instead of “18” and awarded compensation of Rs.1,44,000/- as against an amount of Rs.2,00,000/- and the same is excessive; that the correct

multiplier for the age of 21 years is “18” and the same is supported by precedents; that the Tribunal has not taken the correct income of one Kumari S.Rekha @ S.Reena (deceased in M.A.C.M.A.No.3385 of 2005); that the 2nd claimant, who is the sister of the deceased, is not entitled for compensation and ultimately, prays to set aside the same.

5. Learned counsel for appellants in M.A.C.M.A.No.3385 of 2005 would contend that the deceased was aged 21 years at the time of death and she was unmarried; that she was a Teacher prior to the accident and she was the only earning member of the family; that the Tribunal granted Rs.1,44,000/- as against the claim of Rs.2,00,000/-, which is meagre, and ultimately, prayed to enhance the compensation and allow the appeal as prayed for.

6. There is no dispute with regard to the occurrence of the subject accident due to rash and negligent driving of driver of Tipper bearing No.KA 25.5209 resulting in death of the deceased. Basing on the oral and documentary evidence on record, the Tribunal held so. There are no circumstances to take a different view. The only question that falls for consideration is :

“Whether the compensation granted by the Tribunal is just and reasonable?”

7. **POINT:-** As seen from the evidence on record, the deceased was the daughter of 1st claimant and the sister of 2nd claimant. As per the oral evidence of P.W.1, the deceased was 21 years and working as a Teacher in a private school - Sathya Sai Bala Vikas High School. P.W.2, who is a Clerk in the said school, deposed

that the deceased worked as Tutor in the said school between 1998-2000. He also deposed about her salary as Rs.1,000/-. The Tribunal, after deducting 1/3rd towards personal expenses, took Rs.600/- per month as her contribution to the family and ultimately, assessed compensation payable at Rs.1,44,000/- by taking the multiplier "20". It is also apt to state that had the deceased been alive, she would have improved her education and there would have been hike in the income. The Tribunal has granted only an amount of Rs.1,44,000/- towards loss of income. In view of that, another Rs.56,000/- can be granted towards loss of income and other future benefits, and thus, in all, the claimants are entitled for a sum of Rs.2,00,000/-. Therefore, the compensation is enhanced from Rs.1,44,000/- to Rs.2,00,000/-. The enhanced compensation carries interest at the rate of 7.5% per annum from the date of application till the date of realization.

8. There is no change in the other conditions imposed by the Tribunal. It is appropriate to mention that had the deceased been alive, she would have supported the 2nd claimant, as her mother and brother died in the same accident. Therefore, the 2nd claimant cannot be denied compensation. On deposit of the enhanced compensation, the claimants are permitted to withdraw the entire amount equally along with the accrued interest thereon.

9. In the result, M.A.C.M.A.No.2815 of 2005 is dismissed and M.A.C.M.A.No.3385 of 2005 is allowed as indicated above.

M.A.C.M.A.No.3384 of 2005:-

10. Learned counsel for claimants in M.A.C.M.A.No.3384 of 2005 would contend that that the Tribunal granted Rs.80,000/- as

against the claim of Rs.2,00,000/- as compensation for the death of one Suseelamma, who is the wife of the 1st claimant and mother of the 2nd claimant, and the same is meagre, and ultimately, prayed to enhance the compensation and allow the appeal as prayed for.

11. In the instant O.P., an amount of Rs.80,000/- was awarded on account of the death of the deceased. No amount was granted to the 1st claimant towards loss of consortium. Hence, the 1st claimant is entitled for a sum of Rs.40,000/- towards loss of consortium. An amount of Rs.15,000/- is awarded towards funeral expenses and Rs.15,000/- towards loss of estate. Further, an amount of Rs.50,000/- is awarded towards loss of dependency in addition to Rs.80,000/- granted by the Tribunal. The above mentioned amounts are granted relying on the decision rendered by the Apex Court in **National Insurance Co. Ltd., Vs. Pranay Sethi and others**¹, wherein, it was held as follows:-

“Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs.15,000/-, Rs.40,000/- and Rs.15,000/- respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years.”

Thus, the claimants are entitled for a total compensation of Rs.2,00,000/-. The enhanced compensation carries interest at the rate of 7.5% per annum from the date of application till the date of realization. The other conditions imposed by the Tribunal are not changed. On deposit of the enhanced compensation, the claimants are permitted to withdraw the entire amount along with the accrued interest thereon equally.

¹ 2017 (6) ALD 170 (SC)

12. In the result, M.A.C.M.A.No.3384 of 2005 is allowed as indicated above.

M.A.C.M.A.No.3383 of 2005:-

13. Learned counsel for claimants in M.A.C.M.A.No.3383 of 2005 would contend that that the Tribunal granted Rs.1,00,000/- as against the claim of Rs.2,00,000/- as compensation for the death of one S.Manjunatha Reddy, who is the son of the 1st claimant and brother of the 2nd claimant, and the same is meagre, and ultimately, prayed to enhance the compensation and allow the appeal as prayed for.

14. As per the evidence on record, the deceased was 13 years old on the date of the accident. The Tribunal granted an amount of Rs.1,00,000/- in lumpsum. The Tribunal did not grant the compensation on different heads such as loss of dependency, loss of love and affection, funeral expenses, loss of estate etc., The grant of Rs.1,00,000/- is meagre. Had the deceased been alive, he would have definitely supported his parents and sister. Therefore, the claimants are entitled to another Rs.1,00,000/-, in total, Rs.2,00,000/-. Thus, the claimants are granted a compensation of Rs.2,00,000/-. The enhanced compensation carries interest at the rate of 7.5% per annum from the date of application till the date of realization. The other conditions imposed by the Tribunal remain unaltered. The claimants shall share the enhanced compensation and interest thereon equally. On deposit of the enhanced compensation, the claimants are permitted to withdraw the entire amount along with the accrued interest thereon.

15. In the result, M.A.C.M.A.No.3383 of 2005 is allowed as indicated above.

16. Accordingly, M.A.C.M.A.No.2815 of 2005 is dismissed and M.A.C.M.A.Nos.3383, 3384 and 3385 of 2005 are allowed. There shall be no order as to costs.

17. Miscellaneous petitions pending, if any, in these appeals shall stand closed.

DR.JUSTICE SHAMEEM AKTHER

Date : 02.07.2018
AMD



THE HON'BLE DR.JUSTICE SHAMEEM AKTHER



M.A.C.M.A.Nos.2815, 3383, 3384 & 3385 OF 2005

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