THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2933 of 2007

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act'), by the appellants-claimants aggrieved by the order dated 23.07.2007 in O.P.No.2809 of 2004 on the file of the II Additional Chief Judge, City Civil Court, Hyderabad.

2. Heard the learned counsel for the appellants-claimants and perused the record. Though notices were served to the respondents, none appeared on their behalf. As this appeal is pertains to the year, 2007, it can be disposed of on merits.

3. Learned counsel for the appellants-claimants would contend that the Court below had taken the net salary of the deceased as Rs.6,989/-, deducted 1/3rd thereof towards personal expenses of the deceased and granted compensation of Rs.6,24,600/- against the claim of Rs.10,00,000/-, which is meagre and also contended that in view of the decision rendered in *Sarla Verma v. Delhi Transport Corporation*[1], 1/4th has to be deducted towards personal expenses as there are four dependants on the deceased. The grant of compensation of Rs.9,500/- towards conventional heads is also meagre and ultimately prayed to allow the appeal as prayed for.

4. It is evident from the record that the deceased-B.Eshwariah died due to the accident occurred on 06.09.2004

[1] AIR 2009 SC 3104

while driving the water tanker bearing registration No.AP11 J 826. When the deceased was taking the tanker reverse, it fell in a ditch, he got crushed by the said tanker and thereafter, he succumbed to the injuries. Exs.A3 to A9 salary certificates of the deceased shows that he was drawing a monthly salary of Rs.10,977/-. There is no bar for the deceased to claim compensation under the Motor Vehicles Act. The said salary can be taken into account to assess and award compensation. As per the judgment of *Sarla Verma* (1 supra), when there are four dependants on the deceased, 1/4th has to be deducted towards personal expenses and remaining should be taken as contribution. So, in the instant case, after deducting 1/4th salary towards personal expenses of the deceased, the annual income comes to Rs.99,000/- and after applying the suitable multiplier '11' to the age group of the deceased (53 years), the loss of earnings comes to Rs.10,89,000/-. The appellants-claimants are also entitled for Rs.70,000/- (Rs.40,000/- to 1st appellant/wife towards loss of consortium and Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses to the claimants-appellants) towards conventional heads in view of the decision rendered in *National Insurance Co. Ltd., Vs. Pranay Sethi and others*[2]. Hence, the total compensation comes to Rs.11,59,000/-. As the deceased is responsible for the occurrence of accident and his death, grant of compensation of Rs.10,00,000/- is just and reasonable.

[2] 2017 (6) ALD 170 (SC)

5. Accordingly, this appeal is allowed modifying the order, dated 23.07.2007 passed by the Court below in O.P.No.2809 of 2004 enhancing the compensation from Rs.6,24,600/- to Rs.10,00,000/- with interest @ 7.5% per annum on the enhanced compensation from the date of petition till the date of deposit. On such deposit, appellant No.1/wife is entitled to Rs.2,00,000/- and appellant Nos.2, 3 and 4 are entitled to apportion the remaining amount of Rs.8,00,000/- equally. The appellants-claimants are permitted to withdraw the entire amount with interest as per their apportionment.

Miscellaneous Petitions pending, if any, shall stand closed.

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Dr. SHAMEEM AKTHER, J

16th July, 2018.
ssp