

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CMA No.3695 of 2004 & MACMA No.3341 of 2011

COMMON JUDGMENT:-

Since the facts of the case, issues involved, parties and the Award under challenge in both these appeals are one and the same, both these appeals are being disposed of by this common judgment.

2. Challenging the award dated 06.02.2004 passed in M.O.P.No.1258 of 2001 by the Chairman, Motor Accident Claims Tribunal-cum-I Additional District Judge, Visakhapatnam ('the Tribunal', for brevity), the Oriental Insurance Company Limited preferred M.A.C.M.A.No.3341 of 2011 seeking to set aside the impugned Award and the claimants preferred C.M.A.No.3695 of 2004 seeking enhancement of compensation.

3. Heard the learned counsel for both sides and perused the record. The parties are hereinafter referred to, as arrayed before the Tribunal.

4. The learned counsel for the appellants in CMA No.3695 of 2004 and respondents 1 to 3 in MACMA No.3341 of 2011 (claimants) would contend that the Tribunal ought to have taken the monthly income of the deceased as Rs.10,000/-. The Tribunal granted meagre amount as compensation under conventional heads. The Tribunal ought to have granted the total amount claimed by the claimants as compensation and ultimately prayed to enhance the compensation as claimed.

5. On the other hand, the learned Standing Counsel for the Oriental Insurance Company Limited representing the appellant in MACMA No.3341 of 2011 and 3rd respondent in CMA No.3695 of 2004 would contend that the Tribunal had taken the annual income of the deceased as Rs.34,000/-, which is much higher in those days. Further, the Tribunal applied multiplier '16' to the age of the deceased, whereas the appropriate multiplier applicable to the age of the deceased is '15'. Further, the Tribunal granted interest @ 9% per annum on the amount granted as compensation which is exorbitant and ultimately prayed to reduce the compensation.

6. In view of the above rival contentions, the point that arises for determination in both these appeals is as follows:-

Whether the Tribunal justified in granting a compensation of Rs.3,78,000/- with interest @ 9% per annum from the date of petition till realisation in favour of the claimants (or) whether the claimants are entitled for enhancement of compensation as claimed.

7. It is not in dispute that the deceased-D.Satya Vani suffered fatal injuries in the subject accident occurred on 03.01.2001 and succumbed to the same, due to rash and negligent driving of the driver of the lorry bearing registration No.ADJ-9059. The husband of the deceased deposed as P.W.1 before the Tribunal. He was an employee and his salary was Rs.8,500/- per month. The deceased was fulfilling the domestic needs of the claimants. Considering the same, the Tribunal took the annual income of the deceased as Rs.34,000/-, deducted 1/3rd of it towards personal expenses of the deceased, applied multiplier '16' to the age of the deceased and granted an amount of Rs.3,63,000/- towards loss of dependency. As per Ex.A.5-True copy of SSC certificate of the deceased, the

deceased was aged 38 years as on the date of the accident and the appropriate multiplier applicable to the age of the deceased as per the decision of the Apex Court in *Sarla Verma v. Delhi Transport Corporation*¹, is '15'. Further, the Tribunal granted interest @ 9% per annum on the amount awarded as compensation from the date of petition till realisation. The Tribunal granted Rs.15,000/- towards loss of estate. Admittedly, the Tribunal did not grant any amount under other conventional heads. When no amount is granted under the conventional heads, viz., loss of consortium and funeral expenses, the Tribunal is justified in applying multiplier '16' to the age of the deceased. In view of the same, there is justification in grant of compensation of Rs.3,78,000/- with interest @ 9% per annum from the date of petition till realisation. There is nothing to take a different view. There are no circumstances to interfere with the impugned order of the Tribunal. Both the appeals are devoid of merit and are liable to be dismissed.

8. In the result, both the appeals are dismissed. No costs.

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

Dr. SHAMEEM AKTHER, J

06th September, 2018
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¹ AIR 2009 SC 3104