

**THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER**

**M.A.C.M.A.No.2294 OF 2006**

**JUDGMENT:**

Aggrieved by the grant of compensation of Rs.2,93,000/- by the II Additional Chief Judge, City Civil Court, Hyderabad, vide order, dated 21.02.2006, passed in O.P.No.2213 of 2004, as against the total claim of Rs.5,00,000/-, the claimants, who are dependants on the deceased M.Janardhan (hereinafter referred to, as 'the deceased') preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity) seeking enhancement of compensation.

2. Heard the submissions of Sri C.Vikram Chandra, learned counsel for the appellants-claimants, Sri. Katta Laxmi Prasad, learned Standing Counsel for United India Insurance Company Limited representing the 2<sup>nd</sup> respondent and perused the record.

3. The parties are hereinafter referred to, as they are arrayed in the Original Petition.

4. Learned counsel for the claimants would contend at the time of accident the deceased was aged about 23 years, doing Carpentry work and earning Rs.6,000/- per month, but the Court below has taken the income of the deceased at Rs.75/- per day and by taking the age of his mother as 45 years, awarded an amount of Rs.2,70,000/- towards loss of dependency, besides awarding an amount of Rs.20,000/- towards loss of love and affection and Rs.2,000/- towards funeral expenses and Rs.1,000/- towards transportation charges and in all granted compensation of Rs.2,93,000/- as against the claim of Rs.5,00,000/-. It is also contended that there is ample evidence on record to prove the rash and negligent driving of driver of auto bearing No.AP-13W-5314 and prayed to enhance the compensation.

5. On the other hand, the learned Standing Counsel for United India Insurance Company Limited representing the 2<sup>nd</sup> respondent would contend that the Court below had taken all the relevant factors into consideration and awarded just and reasonable amount towards compensation. There is nothing to take a different view and ultimately prayed to dismiss the appeal.

6. There is no much dispute with regard to the rash and negligent driving on the part of the driver of the auto bearing registration No.AP-13W-5314 in causing death of M.Janardhan (hereinafter referred to as 'the deceased') in a motor accident that occurred on 01.05.2004. The only dispute in this appeal is with regard to quantum of compensation. As per Ex.A.4-certified copy of inquest report, the deceased was aged 23 years and doing coolie work. The deceased was unmarried, the Court below has taken the age of mother of the deceased and calculated the loss of dependency. But, as per the evidence of P.W.1, the deceased was aged about 27 years at the time of accident, doing Carpentry work and earning Rs.6,000/- per month and contributing the same on the family. P.W.2 is an eyewitness to the accident. No independent witness was examined to prove that the deceased was doing Carpentry work and earning Rs.6,000/- per month. Since there is no documentary evidence to show that the deceased was aged about 27 years and earning Rs.6,000/- per month by doing Carpentry work, the Court below took the daily income of the deceased at Rs.75/- per day, which comes to Rs.2,250/- per month. After deducting 1/3<sup>rd</sup> towards his personal expenses and after applying the multiplier '15', the contribution of the deceased to the family comes to Rs.2,70,000/-. The Court below also granted an amount of Rs.20,000/- towards love and affection, Rs.2,000/- towards funeral expenses and Rs.1,000/-

toward transportation charges and in all granted an amount of Rs.2,93,000/-.

7. In view of latest decision of the Apex Court in **MUNNALAL JAIN v. VIPIN KUMAR**<sup>1</sup>, in case of death of bachelor, the age of deceased is to be taken into consideration and if the age of the deceased is taken as 27 years, the appropriate multiplier would be '17'. As the accident has occurred in the year 2004, taking income of the deceased as Rs.75/- per day is very meagre and in the interest of justice if the income of the deceased is taken at Rs.100/- per day it would meet the ends of justice.

8. Thus, this Court is inclined to take the income of the deceased as Rs.100/- per day, which comes to Rs.36,000/- per annum. Since the petitioner is unmarried, half of his earnings are deducted towards personal expenses. As per the judgment of the Apex court in **Sarla Verma v. Delhi Transport Corporation**<sup>2</sup>, the appropriate multiplier applicable to the age of the deceased 27 years is '17'. Hence, the loss of dependency comes to Rs.3,06,000/- (Rs.36,000 x 1/2 x 17). Thus, the appellants-claimants are entitled for Rs.3,06,000/- towards loss of dependency.

9. It is apt to refer to the recent decision of the Apex Court in **National Insurance Co. Ltd., Vs. Pranay Sethi and others**<sup>3</sup>, 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.”**

---

<sup>1</sup> (2015) 6 SCC 347

<sup>2</sup> AIR 2009 SC 3104

<sup>3</sup> 2017 (6) ALD 170 (SC)

Taking into consideration the aforementioned decision of the Apex Court, this Court is inclined to grant Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses. Thus, the appellants-claimants are entitled for a total compensation of Rs.3,36,000/- (Rupees three lakhs thirty six thousand only) (Rs.3,06,000/- + Rs.15,000/- + Rs.15,000/-).

10. The Court below awarded interest at the rate of 9% per annum on the amount of compensation from the date of petition till realisation. The enhanced amount shall carry interest at the rate of 7.5% per annum from the date of petition till realization.

11. Accordingly, this appeal is allowed in part modifying the order, dated 21.02.2006, passed by the II Additional Chief Judge, City Civil Court, Hyderabad, enhancing the compensation from Rs.2,93,000/- to Rs.3,36,000/- with interest at the rate of 7.5% per annum on the enhanced compensation from the date of petition till realisation. The other terms of the impugned order shall remain unaltered. On deposit, the claimants are entitled to withdraw the compensation amount along with interest as apportioned below:

|                                    |   |               |
|------------------------------------|---|---------------|
| 1 <sup>st</sup> appellant (Father) | : | Rs.1,30,000/- |
| 2 <sup>nd</sup> appellant (Mother) | : | Rs.1,30,000/- |
| 3 <sup>rd</sup> appellant (Sister) | : | Rs.76,000/-   |
|                                    |   |               |
| TOTAL                              | : | Rs.3,36,000/- |

Miscellaneous Petitions pending, if any, shall stand closed. No order as to costs.

**Dr. SHAMEEM AKTHER, J**

**JULY 9, 2018**  
YVL

**THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER**



**M.A.C.M.A.No.2294 OF 2006**

**Date:09.07.2018**