

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.1769 of 2005

JUDGMENT:

Aggrieved by the grant of compensation of Rs.2,75,800/- as against a claim of Rs.5,00,000/- awarded by the Chairman, Motor Accidents Claims Tribunal-cum-District Judge, Kadapa ('the Tribunal' for brevity), vide order, dated 04.09.2004, passed in M.V.O.P.No.530 of 2001, the claimant preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity) seeking enhancement of compensation.

2. Heard the learned counsel for the appellant-claimant, the learned Standing Counsel for United India Insurance Company Limited representing the 2nd respondent and perused the record.

3. The learned counsel for the appellant-claimant would contend that the deceased was a full-time teacher working in Maharshi Public School and earning Rs.4,000/- per month. There is oral and documentary evidence to substantiate the same. The Tribunal granted lesser amount towards loss of consortium, loss of estate and funeral expenses and ultimately prayed to enhance the compensation as prayed for.

4. On the other hand, the learned Standing Counsel for United India Insurance Company Limited representing the 2nd respondent would contend that the Tribunal, while dealing with the aspect of grant of compensation, had analysed the evidence on record and awarded just and reasonable amount towards compensation. There

are no circumstances to vary the award and ultimately prayed to dismiss the appeal.

5. It is not in dispute that the deceased died in a motor accident that occurred on 11.10.2000 due to the rash and negligent driving of the driver of the lorry bearing registration No.AP-21-V-0031. It is also not in dispute that the offending lorry was owned by the 1st respondent and insured with the 2nd respondent. There is ample evidence to believe the accidental death of the deceased due to the rash and negligent driving of the driver of the offending lorry and that the insurance policy of the offending lorry was valid as on the date of accident. So, the only point that is to be determined in this appeal is with regard to the enhancement of compensation.

6. It is the case of the appellant-claimant that the deceased was working as a full-time teacher in a private school, namely, Maharshi Public School and earning a monthly salary of Rs.4,000/-. It is also the case of the appellant-claimant that the deceased was running an electrical shop and was earning another sum of Rs.4,000/- per month. On the other hand, the learned Standing Counsel for the 2nd respondent-insurance company would contend that the aforesaid contentions are all invented for the purpose of claiming compensation and that the deceased was neither a teacher nor was running an electrical shop.

7. P.W.3 is said to be the correspondent of Maharshi Public School. He deposed that the deceased was working as a teacher in the said school and drawing a salary of Rs.4,000/- per month and Ex.A.5 is the Salary Certificate of the deceased. Ex.A.6 is another

salary certificate issued by the Headmaster of Maharshi Public School. As seen from the entire evidence on record, there is no mention of the qualifications of the deceased. P.W.2 is none other than the brother of the deceased. Though the appellant-claimant deposed that the deceased was running an electrical shop, the charge-sheet shows that it is P.W.2 (brother of the deceased) who is running the said electrical shop. In the investigation conducted by the police, it was revealed that the deceased was a part-time teacher. The Tribunal, while assessing the compensation payable to the appellant-claimant, took the monthly income of the deceased as Rs.1,800/- per month. The accident and the death of the deceased pertain to the year 2000. However, in the light of the evidence that the deceased was a part-time teacher, this Court is inclined to take the monthly income of the deceased as Rs.2,000/-, i.e., Rs.24,000/- per annum. If $\frac{1}{3}^{\text{rd}}$ thereof is deducted towards personal expenses, the annual loss of dependency would come to Rs.16,000/-. As per the judgment of the Apex court in case between Sarla Verma v. Delhi Transport Corporation¹, the appropriate multiplier applicable to the age of the deceased (24 years) is 17. Hence, the loss of dependency comes to Rs.2,72,000/- (Rs.16,000/- x 17). Thus, the appellant-claimant is entitled for Rs.2,72,000/- towards loss of dependency.

8. It is apt to refer to the recent decision of the Apex Court in National Insurance Co. Ltd., Vs. Pranay Sethi and others², wherein, it was held as follows:-

“Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should

¹ AIR 2009 SC 3104

² 2017 (6) ALD 170 (SC)

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.”

Taking into consideration the aforementioned decision of the Apex Court, this Court is inclined to grant Rs.40,000/- towards loss of consortium, Rs.15,000/- towards loss of estate, Rs.15,000/- towards funeral expenses and Rs.8,000/- towards loss of love and affection. Thus, the appellant-claimant is entitled for a total compensation of Rs.3,50,000/- (Rupees three lakhs fifty thousand only) (Rs.2,72,000/- + Rs.40,000/- + Rs.15,000/- + Rs.15,000/- + Rs.8,000/-). The Tribunal awarded interest at the rate of 9% per annum and the same is just and reasonable in the facts and circumstances of the case.

9. Accordingly, this appeal is allowed in part modifying the order, dated 04.09.2004, passed by the Tribunal, enhancing the compensation from Rs.2,75,800/- to Rs.3,50,000/- with interest at the rate of 9% per annum on the enhanced compensation from the date of petition till realisation. On deposit of the compensation, the appellant-claimant is permitted to withdraw the entire amount with interest. The other terms of the Order under challenge remain unaltered.

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

07th June, 2018
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Dr. SHAMEEM AKTHER, J