

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3247 of 2005

JUDGMENT:

Aggrieved by the grant of compensation of Rs.2,00,200/- as against a claim of Rs.2,50,000/-, vide order, dated 25.02.2005, passed in O.P.No.2013 of 2001 by the Motor Accident Claims Tribunal-cum-III Additional Chief Judge, City Civil Court, Hyderabad ('the Tribunal', for brevity), the claimants 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 appellants-claimants and perused the record. In spite of service of notice and despite listing this appeal under the caption "For Orders", there is no representation for the 2nd respondent-Insurance Company. This appeal is of the year 2005. Hence, this appeal can be disposed of basing on the material available on record, without waiting for the learned Standing Counsel for the 2nd respondent-Insurance Company to advance arguments.

3. The learned counsel for the appellants-claimants would contend that the deceased-M.Brahmachari died in the subject accident occurred on 30.12.1999, due to rash and negligent driving of the driver of the Matador Van bearing registration No.APB-3899. The Tribunal took the monthly income of the deceased as Rs.2,000/- which is less. The Tribunal granted a meagre compensation under conventional heads, i.e., Rs.2,000/-

towards funeral charges, Rs.5,000/- towards loss of consortium and Rs.2,500/- towards loss of estate and ultimately prayed to enhance the compensation as claimed.

4. The Tribunal, after analysing the entire evidence on record, took the monthly income of the deceased as Rs.2,000/-, deducted 1/3rd of it towards personal expenses of the deceased and by applying the relevant multiplier specified in Schedule II of the Act for the age group of 45 to 50 years, granted a compensation of Rs.1,90,677/- towards loss of dependency. Since the date of occurrence of the subject accident is 30.12.1999, the Tribunal is justified in granting the said compensation in favour of the appellants-claimants towards loss of dependency. However, the Tribunal granted lesser amounts under conventional heads. In view of the same, this Court deems it appropriate to grant an amount of Rs.30,000/- to the 1st appellant (wife of the deceased) towards loss of consortium. The appellants-claimants are also entitled for Rs.15,000/- towards funeral expenses and another Rs.15,000/- towards loss of estate. In all, the appellants-claimants are entitled for a compensation of Rs.2,50,677/- rounded off to Rs.2,50,000/-.

5. Accordingly, this appeal is allowed, modifying the order, dated 25.02.2005, passed in O.P.No.2013 of 2001 by the Tribunal, enhancing the compensation from Rs.2,00,200/- to Rs.2,50,000/-. The enhanced amount of compensation carries interest at the rate of 7.5% per annum from the date of petition till realisation. Out of the enhanced amount of compensation,

the 1st appellant (wife of the deceased) is entitled for Rs.30,000/- and the appellants 2 and 3 (son and daughter of the deceased) are entitled to share the remaining amount equally. On deposit of the enhanced compensation, the appellants-claimants are permitted to withdraw the entire amount along with the interest accrued thereon. Other terms of the Order under challenge remain unaltered.

Miscellaneous Petitions pending, if any, shall stand closed.

There shall be no order as to costs.

27th August, 2018
Bvv

Dr. SHAMEEM AKTHER, J

