THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.1904 of 2007

JUDGMENT:

Aggrieved by the grant of compensation of Rs.1,60,500/- as against a claim of Rs.2,75,000/- by the Motor Accident Claims Tribunal-cum-III Additional District Judge (FTC), Cuddapah ('the Tribunal' for brevity), vide order, dated 26.07.2005, passed in M.V.O.P.No.307 of 2004, 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. Despite listing this mater 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 on merits, 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 Tribunal granted a meagre compensation of Rs.1,60,500/- as against a claim of Rs.2,75,000/-. The deceased-S.Vemanarayana was working as a coolie in a mill and was earning Rs.150/- per day. He was also a commission agent and was earning Rs.20,000/- to 25,000/- per annum towards commission. The Tribunal took the monthly income of the deceased as Rs.1,500/- which is meagre. The Tribunal awarded meagre

compensation on conventional heads and ultimately prayed to enhance the compensation as claimed.

4. In view of the above, the only point that arises for determination in this appeal is whether the appellants-claimants are entitled for enhancement of compensation as claimed.

5. As per the material placed on record, the deceased-S.Vemanarayana died in the subject accident occurred on 22.03.2004, due to rash and negligent driving of the driver of the Maruti Van bearing registration No.AP-28-H-1360. As per the evidence on record, the deceased was 48 years old as on the date of the subject accident and was working as a coolie in a mill. Ex.A.5 is the Professional certificate issued by the owner of M/s.Bhargavi Decorticating Mill. Ex.A.7 is another Professional Certificate issued by the owner of M/s.Mubarak Decorticators, Pulivendla. In both these certificates, it was mentioned that the deceased was a commission agent in groundnuts and sunflower and was earning Rs.20,000/- to Rs.25,000/- per year and also used to work as a coolie and earn Rs.150/- per day. Having analysed the evidence on record, the Tribunal took the monthly income of the deceased as Rs.1,500/-, which is on lower side. Having regard to the oral and documentary evidence on record, this Court deems it appropriate to take the monthly income of the deceased as Rs.2,500/-. The first appellant is the major son of the deceased and the 2nd appellant is the married daughter of the deceased. Under these circumstances, half of the income of the deceased is liable to be deducted towards personal expenses of the deceased. Thus, the monthly loss of dependency would come to

Rs.1,250/-. The appropriate multiplier applicable to the age of the deceased (48 years) as per the decision of the Apex Court in Sarla Verma v. Delhi Transport Corporation[1] is '13'. Thus, the total loss of dependency would come to Rs.1,95,000/- (Rs.1,250/- x 12 x 13). The appellants-claimants are also entitled for Rs.15,000/- towards loss of estate and another Rs.15,000/- towards funeral expenses. In all, the appellants-claimants are entitled for a compensation of Rs.2,25,000/- (Rs.1,95,000/- + Rs15,000/- + Rs.15,000/-). The Tribunal granted interest @ 7.5% per annum on the amount awarded as compensation from the date of petition till realisation, which is just and reasonable.

6. Accordingly, this appeal is allowed in part, modifying the 26.07.2005, passed in M.V.O.P.No.307 of 2004, by the Tribunal, enhancing the compensation from Rs.1,60,500/- to Rs.2,25,000/-. The enhanced amount of compensation carries interest @ 7.5% per annum from the date of petition till realisation. On deposit of the enhanced amount of compensation, the appellants-claimants are permitted to withdraw the same along with interest accrued thereon in equal shares. Other terms of the Order under challenge remain unaltered. No costs.

Pending miscellaneous petitions, if any, shall stand closed.

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Dr. SHAMEEM AKTHER, J

26th September, 2018
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[1] AIR 2009 SC 3104