

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2132 of 2005

JUDGMENT:

Aggrieved by the grant of compensation of Rs.6,88,200/- as against a claim of Rs.12,00,000/-, vide order, dated 08.06.2004, passed in M.O.P.No.747 of 2002 by the Chairman, Motor Accident Claims Tribunal-cum-District Judge, Vizianagaram ('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 both sides and perused the record.

3. The learned counsel for the appellants-claimants would contend that the Tribunal did not grant adequate compensation towards loss of dependency and also under other conventional heads and ultimately prayed to enhance the compensation as claimed.

4. On the other hand, the learned Standing Counsel for the 3rd respondent-Insurance Company would contend that the Tribunal had taken all the relevant factors into consideration and granted just and reasonable amount as compensation. There are no circumstances to enhance the same and ultimately prayed to dismiss the appeal by confirming the order under challenge.

5. It is not in dispute that the deceased-S.V.R.K.Gupta died in a road accident occurred on 14.10.2001, due to rash and negligent driving of the driver of the Maruthi Van bearing registration No.OR-02-C-9606. The only point that arises for determination in this appeal is whether the appellants-claimants are entitled for enhancement of compensation as claimed.

6. As per the material on record, the appellants-claimants are the wife, children and parents of the deceased-S.V.R.K.Gupta, who died in the subject accident. The Tribunal, after analysing the entire evidence on record, took the age of the deceased as 50 years, monthly income as Rs.8,796.23 ps., deducted some amount towards personal expenses of the deceased, applied multiplier '11' and granted an amount of Rs.6,73,200/- towards loss of dependency. Since the subject accident occurred on 14.10.2001, the Tribunal is justified in assessment and grant of aforementioned compensation towards loss of dependency. There are no grounds to take a different view.

7. As far as grant of compensation of Rs.10,000/- towards loss of consortium to the 1st appellant (wife of the deceased) and Rs.5,000/- towards transport to hospital and funeral expenses is concerned, the same is on lower side. Accordingly, this Court deems it appropriate to grant an amount of Rs.40,000/- to the 1st appellant-wife of the deceased towards loss of consortium, Rs.15,000/- to the appellants-claimants towards loss of estate and Rs.15,000/- to the appellants-claimants towards funeral expenses. Thus, the appellants-claimants are entitled for a total compensation of Rs.7,43,200/- (Rs.6,73,200/- + Rs.40,000/- +

Rs.15,000/- + Rs.15,000/-). The Tribunal granted interest @ 9% per annum from the date of petition till realisation. This Court deems it appropriate to grant interest @ 7.5% per annum on the enhanced amount of compensation from the date of petition till realisation.

8. Accordingly, this appeal is allowed in part, modifying the order, dated 08.06.2004, passed in M.O.P.No.747 of 2002 by the Tribunal, enhancing the compensation from Rs.6,88,200/- to Rs.7,43,200/-. The enhanced amount of compensation carries interest at the rate of 7.5% per annum from the date of petition till realisation. On deposit of the enhanced compensation, the 1st appellant-wife of the deceased is entitled to withdraw the entire enhanced compensation along with the interest accrued thereon. Other terms of the Order under challenge remain unaltered. No costs.

Pending Miscellaneous Petitions, if any, shall stand closed.

29th August, 2018
Bvv

Dr. SHAMEEM AKTHER, J