

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2585 of 2005

JUDGMENT:

Aggrieved by the grant of compensation of Rs.5,67,088/- as against a claim of Rs.14,00,000/- by the Chairman, Motor Accident Claims Tribunal-cum-III Additional District Judge, Visakhapatnam ('the Tribunal' for brevity), vide order, dated 24.01.2005, passed in M.O.P.No.1301 of 2002, 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 appellants-claimants and perused the record. In spite of service of notice on the 2nd respondent-APSRTC, there is no representation for it. This appeal is of the year 2005. It underwent several adjournments. On 08.06.2018, as there was no representation for the 2nd respondent-APSRTC, the matter was directed to be listed under the caption "For Orders". Today also, in spite of listing the matter under the caption "For Orders", there is no representation for 2nd respondent-APSRTC. Under these circumstances, this appeal can be disposed of on merits without waiting for the learned Standing Counsel for the 2nd respondent-APSRTC to advance arguments.

3. The learned counsel for the appellants-claimants would submit that the deceased-N.Chinna Venkataiah, who was 47 years old as on the date of accident and was working as Head Constable in Police Department, died in a motor accident that occurred on 23.08.2002 due to rash and negligent driving of the driver of the APSRTC bus bearing registration No.AP-09-Z-8778. Though the monthly salary of

the deceased was Rs.10,293/- as on the date of the accident, the Tribunal had taken the net salary of Rs.4,847/- into consideration and by applying multiplier 13, granted Rs.5,04,088/- towards loss of dependency, which is not in accordance with the enactment and ultimately prayed to enhance the compensation to Rs.14,00,000/- as claimed.

4. In view of the submissions made by the learned counsel for appellants-claimants, the only question that arises for determination in this appeal is whether the appellants-claimants are entitled for enhancement of compensation.

5. As per the evidence on record, the deceased-N.Chinna Venkataiah died in a motor accident that occurred on 23.08.2002 due to rash and negligent driving of the driver of the APSRTC bus bearing registration No.AP-09-Z-8778. The deceased was working as Head Constable in Police Department as on the date of the accident. His gross salary was Rs.10,293/- and his net salary was Rs.4,847/- as on the date of the accident, which is evident from Ex.X.1-Pay Slips of the deceased for the month of August and September, 2002 and Ex.A.5-Pay Slip of the deceased for the month of August, 2002. The genuineness of Ex.A.5 and Ex.X.1 are not in dispute. The Tribunal took the net salary of the deceased as Rs.4,847/-, deducted 1/3rd of it towards his personal expenditure and by applying multiplier '13', awarded an amount of Rs.5,04,088/- towards loss of dependency. There is specific evidence on record to the effect that the deceased was drawing a monthly gross salary of Rs.10,293/-. Thus, this Court is inclined to take the monthly income of the deceased as Rs.10,293/- which comes to Rs.1,23,516/- per annum. If 1/3rd of it

is deducted towards his personal expenses, the contribution of the deceased to his family comes to Rs.82,344/- per annum (Rs.1,23,516/- minus 1/3rd of it). 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 (47 years) is '13'. Hence, the loss of dependency comes to Rs.10,70,472/- (Rs.82,344/- x 13). Thus, the appellants-claimants are entitled for a sum of Rs.10,70,472/- towards loss of dependency.

6. 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 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/- to the 1st appellant/1st claimant (wife) towards loss of consortium, Rs.15,000/- to the appellants-claimants towards loss of estate and another Rs.15,000/- towards funeral expenses. Thus, the appellants-claimants are entitled for a total compensation of Rs.11,40,472/- (Rupees eleven lakhs forty thousand four hundred and seventy two only) (Rs.10,70,472/- + Rs.40,000/- + Rs.15,000/- + Rs.15,000/-). The Tribunal awarded interest at the rate of 9% per annum on the amount of compensation from the date of petition till the date of deposit. Having regard to the facts and circumstances of the case, this Court is inclined to grant interest at the rate of 7.5% per annum

¹ AIR 2009 SC 3104

² 2017 (6) ALD 170 (SC)

on the enhanced amount of compensation from the date of petition till realisation.

7. Accordingly, this appeal is allowed in part modifying the order, dated 24.01.2005, passed by the Tribunal, enhancing the compensation from Rs.5,67,088/- to Rs.11,40,472/- with interest at the rate of 7.5% per annum on the enhanced amount of compensation from the date of petition till realisation. On deposit of the compensation, the appellants-claimants are permitted to withdraw the entire amount along with the accrued interest. The apportionment of compensation shall be as under:

1 st appellant (wife)	:	Rs.7,40,472/- (including loss of consortium of Rs.40,000/-
2 nd appellant (son)	:	Rs.2,00,000/-
3 rd appellant (daughter)	:	Rs.2,00,000/-
TOTAL	:	Rs.11,40,472/-

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

Dr. SHAMEEM AKTHER, J

19th June, 2018
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