

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2239 OF 2007

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), by the appellants-claimants aggrieved by the order dated 21.06.2007 in M.V.O.P.No.320 of 2005 on the file of the Motor Accident Claims Tribunal-cum-I Additional District Judge, Ongole (for short 'the Tribunal').

2. Heard the learned counsel for appellants-claimants and perused the record. In spite of service of notice, there is no representation for the respondents. This appeal pertains to the year 2007. Hence, it can be disposed of on merits basing on the material available on record.

3. Learned counsel for the appellants-claimants would contend that the deceased was 36 years old. The Tribunal took the annual income of the deceased at Rs.15,000/- and granted compensation of Rs.1,85,000/-, which is meagre. As per the evidence, the deceased was earning Rs.3,000/- per month. The Tribunal deducted 1/3rd thereof towards personal expenses. There are five dependents on the deceased. So, the Tribunal ought to have deducted 1/4th towards personal expenses. The Tribunal did not grant adequate compensation on other heads also and ultimately prayed to enhance the compensation.

4. In view of the submissions made by the learned counsel for the appellant, the only point that arises for determination is, whether the appellants are entitled for enhancement of compensation?

5. There is no dispute with regard to the death of the deceased-Kondaiah in a road accident occurred on 16.06.2005 due to the rash and negligent driving of the driver of lorry bearing No.AP 27V 2176. The only dispute is with regard to the quantum of compensation.

6. As per the evidence and the documents placed before the Court, the deceased-Kondaiah was 36 years old. The Tribunal had rightly taken the same. The deceased was working as a cooli. The Tribunal took his annual income as Rs.15,000/-, which is meagre and some future hike in the income of the deceased is required to be taken. Taking the totality of the circumstances of the case, the annual income of the deceased can be taken as Rs.25,000/-. Since there are five dependents, 1/4th thereof is liable to be deducted towards personal expenses of the deceased. After deducting 1/4th towards the personal expenses of the deceased, the net contribution to his family comes to Rs.18,750/-. The suitable multiplier for the age (36) of the deceased as per the decision of the Apex Court in *Smt.Sarla Verma and others Vs. Delhi Transport Corporation and another*¹, is '15'. After applying the multiplier '15', the loss of dependency comes to Rs.2,81,250/-, which is rounded to Rs.2,81,000/-. The appellants-claimants are entitled for the said amount towards loss of dependency.

7. Further, as per the decision of the Apex Court in *National Insurance Co. Ltd., Vs. Pranay Sethi and others*², the 1st claimant/wife of the deceased is entitled for a sum of Rs.40,000/- towards loss of consortium and the claimants are entitled to Rs.15,000/- towards funeral expenses and Rs.15,000/- towards loss

¹ 2009 (6) SCC 121

² 2017 (6) ALD 170 (SC)

of estate. In total, the appellants-claimants are entitled for compensation of Rs.3,51,000/- (Rs.2,81,000/- + Rs.70,000/-) with interest @ 7.5% per annum on the enhanced compensation from the date of petition till the date of deposit.

8. In the result, the appeal is partly allowed modifying the order, dated 21.06.2007, passed by the Tribunal in M.V.O.P.No.320 of 2005 enhancing the compensation from Rs.1,85,000/- to Rs.3,51,000/- with interest @ 7.5% per annum on the enhanced compensation from the date of petition till the date of deposit. Out of enhanced compensation, 1st claimant/wife is entitled to 50% of the same. Insofar as the remaining 50% of the enhanced amount is concerned, all the other claimants are entitled to share it equally. The other directions in the impugned order remain unaltered. The appellants-claimants are permitted to withdraw the entire amount with interest as per the aforesaid apportionment of their shares.

The Miscellaneous Petitions, if any, pending shall stand closed.
No costs.

Dr. SHAMEEM AKTHER, J

Date: 08.08.2018
ssp