

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3709 OF 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellants/claimants aggrieved by the grant of compensation of Rs.2,17,000/- with proportionate costs and interest at the rate of 9% per annum from the date of petition till the date of realisation, as against a claim of Rs.3,00,000/-, by the learned Chairman, Motor Vehicles Accident Claims Tribunal – cum – VII Additional District Judge (Fast Track Court), Krishna at Vijayawada (for short, “the Tribunal”) *vide* order, dated 02.08.2005, passed in M.V.O.P.No.28 of 2004.

2. Though this matter is posted today under the caption “For Orders”, there is no representation for both sides. The appeal pertains to the year 2005. So, it can be disposed of basing on the material available on record.

3. This appeal is filed by the appellants/claimants contending that as against a claim of Rs.3,00,000/-, the Tribunal granted a compensation of Rs.2,17,000/- with proportionate costs and interest at the rate of 9% per annum from the date of petition till the date of realisation, which is meagre; that the Tribunal had granted lesser compensation on different counts and it had not taken the correct income of the deceased Boyina Satyanarayana while assessing and awarding the compensation; that the Tribunal ought not have allowed the claim petition in part and ultimately, prayed to enhance the compensation and allow the appeal as prayed for.

4. As seen from the grounds of appeal, the short point that falls for determination is:

“Whether the appellants/claimants are entitled for enhancement of compensation?”

5. **POINT:-** There is no dispute with regard to the deceased Boyina Satyanarayana succumbing to injuries suffered in a road accident that occurred on 31.08.2002 due to the rash and negligent driving of the driver of lorry i.e., respondent No.1. The only dispute is with regard to enhancement of compensation.

6. While dealing with the subject matter of the appeal, relying on the oral and documentary evidence on record, the Tribunal was pleased to award a compensation of Rs.2,17,000/- with proportionate costs and interest at the rate of 9% per annum from the date of petition till the date of realisation, as against a claim of Rs.3,00,000/-. The Tribunal had rightly taken the monthly income of the deceased Boyina Satyanarayana as Rs.1,500/- and applied the correct multiplier “16” for the age of 38 years of the deceased Boyina Satyanarayana and assessed the compensation at Rs.2,17,000/-. The subject accident occurred on 31.08.2002. The earning capabilities in those days are required to be taken into consideration while determining the compensation payable to the claimants. In view of that, the Tribunal had rightly taken the monthly income of the deceased Boyina Satyanarayana and determined the compensation. There are no circumstances to vary with the impugned order. Further, in view of the order, dated 06.01.2012, the appeal against respondent Nos.1 and 2 was

dismissed for default by this Court and no steps are taken. The appeal is devoid of merit and is liable to be dismissed.

7. Accordingly, the appeal is dismissed. There shall be no order as to costs.

8. Miscellaneous petitions pending, if any, in this appeal shall stand closed.

DR.JUSTICE SHAMEEM AKTHER

Date : 27.09.2018
AMD



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