

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3725 OF 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellants/claimant Nos.1 to 3 & 5 aggrieved by the grant of compensation of Rs.7,38,086/- with proportionate costs and interest at the rate of 7.5% per annum from the date of petition till the date of realisation as against a claim of Rs.30,00,000/-, by the learned Chairman, I Additional Motor Accident Claims Tribunal, Nellore (for short, "the Tribunal") *vide* order, dated 08.09.2005, passed in O.P.No.609 of 2001.

2. Heard the submissions of the learned counsel appearing for the appellants/claimant Nos.1 to 3 & 5. Though the matter is posted under the caption "For Orders", there is no representation for the respondents. Perused the material available on record. The appeal pertains to the year 2005. So, it can be disposed of basing on the material available on record.

3. Learned counsel for the appellants/claimant Nos.1 to 3 & 5 would contend that the deceased Mukku Balaji Prasad was 28 years old and there are four dependants on him, but the Tribunal deducted 1/3rd of his income towards personal expenses instead of deducting 1/4th of his income; that the Tribunal granted meagre amounts towards loss of consortium and other conventional heads; that the grant of compensation of Rs.7,38,086/- with proportionate costs and interest at the rate of 7.5% per annum from the date of petition till the date of realisation as against a claim of

Rs.30,00,000/- is on lower side and ultimately, prayed to enhance the compensation and allow the appeal as prayed for.

4. In view of the submissions made by the learned counsel for the appellants/claimant Nos.1 to 3 & 5, the short point that arises for determination is:

“Whether the appellants/claimant Nos.1 to 3 & 5 are entitled for enhancement of compensation as prayed?”

5. **POINT:-**

There is no dispute that the deceased Mukku Balaji Prasad succumbed to injuries suffered in a motor accident caused on 18.04.2001 due to the rash and negligent driving of the driver of a motor lorry oil tanker bearing No.AP.5T.3994. The only dispute is with regard to enhancement of compensation.

6. As per the records available, the deceased Mukku Balaji Prasad was an Income Tax assessee. Considering the same, the Tribunal had taken an amount of Rs.58,840/- as annual income of the deceased Mukku Balaji Prasad and deducted 1/3rd thereof towards his personal expenses. As there are four dependants, the Tribunal ought to have deducted 1/4th of the income of the deceased Mukku Balaji Prasad towards his personal expenses. There is no dispute with regard to the age of the deceased Mukku Balaji Prasad i.e., 28 years as on the date of accident and death. The suitable multiplier for the age of “28” years is “17” as per **Sarla Verma v. Delhi Transport Corporation**¹'s case. As the deceased Mukku Balaji Prasad was 28 years old at the time of accident,

¹ AIR 2009 SC 3104

some hike in his income is required to be taken into consideration towards future income. Therefore, it is apt to assess annual contribution of the deceased to the claimants as Rs.52,500/-. The compensation towards loss of dependency comes to Rs.52,500/- x 17 = Rs.8,92,500/-.

7. It is apt to refer to the recent decision of the Apex Court in **National Insurance Co. Ltd., Vs. Pranay Sethi and others**², 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 appellant No.1/claimant No.1 (wife) towards loss of consortium, Rs.15,000/- to the claimants towards loss of estate and another Rs.15,000/- towards funeral expenses. In all, the compensation payable to the claimants comes to Rs.9,62,500/- (i.e., Rs.8,92,500/- + Rs.70,000/-) and the same is rounded to Rs.9,65,000/- (Rupees nine lakhs sixty five thousand only) with interest at the rate of 7.5% per annum from the date of application till the date of realization on the entire amount of compensation.

8. Accordingly, this appeal is allowed in part modifying the order, dated 08.09.2005, passed in O.P.No.609 of 2001, by the Tribunal, enhancing the compensation from Rs.7,38,086/- to Rs.9,65,000/- with interest at the rate of 7.5% per annum from the date of application till the date of realization on the entire amount

² 2017 (6) ALD 170 (SC)

of compensation. On deposit of the enhanced compensation, appellant No.1/claimant No.1, who is the wife of the deceased Mukku Balaji Prasad, is entitled for half of the compensation and interest thereon. Appellant Nos.2 & 3 and respondent No.3/claimant Nos.2 to 4 are entitled to share the remaining enhanced amount and interest accrued thereon equally. There is no change in the other conditions or directions imposed by the Tribunal. On deposit of the compensation, the claimants are permitted to withdraw the entire amount along with the accrued interest as indicated. There shall be no order as to costs.

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

Date : 11.10.2018
AMD

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