THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3190 of 2005

JUDGMENT:

Aggrieved by the grant of compensation of Rs.4,01,000/- as against a claim of Rs.9,00,000/- by the Chairman, Motor Accident Claims Tribunal-cum-Principal District Judge, Khammam ('the Tribunal' for brevity), vide order, dated 05.10.2005, passed in O.P.No.671 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 the appellants-claimants, the learned Standing Counsel for the 2nd respondent-Insurance Company and perused the record.

3. The learned counsel for the appellants-claimants would submit that Tribunal had taken the monthly income of the deceased as Rs.3,000/-, deducted 1/3rd of it towards personal expenses of the deceased, adopted multiplier '16', and granted an amount of Rs.3,84,000/- towards loss of dependency. The Tribunal further granted an amount of Rs.15,000/- to the 1st appellant-1st claimant (wife of the deceased) towards loss of consortium and Rs.2,000/- towards funeral expenses. In all, the Tribunal granted a compensation of Rs.4,01,000/- with interest @ 7.5% per annum from the date of petition till realisation in favour of the appellants-claimants, which is meagre. There is

Salary Certificate of the deceased to show that the deceased was earning Rs.4,762/- per month. In view of the age of the deceased as on the date of accident (28 years), some hike in the salary is also required to be taken into consideration. The Tribunal granted small amounts towards other conventional heads and ultimately prayed enhance the compensation as claimed.

4. On the other hand, the learned Standing Counsel for the 2nd respondent-Insurance Company would contend that there is evidence of P.W.3-employee of the Singareni Collieries Company Limited to the effect that the deceased was working as a ‘Badli Filler’ and was a permanent employee of the Singareni Collieries Company Limited as on the date of accident. The Tribunal rightly assessed the compensation and awarded the same. There are no circumstances to interfere with the same and ultimately prayed to dismiss the appeal by confirming the Order under challenge.

5. In view of the above submissions, the only point that arises for consideration in this appeal is whether the appellants-claimants are entitled for enhancement of compensation as claimed.

6. It is not in dispute that the deceased-Chukka Rajaiah, died in a motor accident occurred on 11.12.1998, due to rash and negligent driving of the driver of the lorry bearing registration No.AP-26-T-7378. The only point that arises for consideration in

this appeal is whether the appellants-claimants are entitled for enhancement of compensation.

7. P.W.1 is the wife of the deceased. She deposed that the deceased was working as a 'Badli Filler' in Singareni Collieries Company Limited as on the date of accident and was earning Rs.4,762/- per month and used to contribute the same on her and other dependents, who are five in number. Ex.A.4 is the Salary Certificate of the deceased, which reveals that the deceased was earning Rs.4,762-68 ps. per month. P.W.3 is an employee of the Singareni Collieries Company Limited. He deposed that the employment of the deceased was permanent in nature and the deceased was drawing a monthly salary of Rs.4,762-68 ps. as on the date of accident. He has authorisation to speak on behalf of the Singareni Collieries Company Limited. He further deposed that the deceased worked in Singareni Collieries Company Limited from May, 1995 to 30.03.1999 and that the deceased was appointed permanently as 'Badli Worker'. Considering these factors, the Tribunal ought to have taken the monthly income of the deceased (Rs.4,762-68 ps.) into consideration instead of Rs.3,000/- per month. Further, the Tribunal ought to have deducted 1/4th of the monthly income of the deceased towards the personal expenses of the deceased, since there are five dependants on the deceased. The Tribunal applied multiplier '16' for the age of the deceased (28 years), though the suitable multiplier applicable to the age of the deceased as per the decision of the Apex Court in the case

between Sarla Verma v. Delhi Transport Corporation[1] is '17'. Under these circumstances, this Court deems it appropriate to take the monthly income of the deceased as Rs.4,762-68 ps., i.e., Rs.57,152-16 ps. per annum. Since there are five dependants on the deceased, 1/4th is liable to be deducted towards personal expenses of the deceased. So, the annual loss of dependency would come to Rs.42,864-12 ps. (Rs.57,152-16 ps. minus 1/4th of it). As stated above, the appropriate multiplier applicable to the age of the deceased is '17'. So, the total loss of dependency would come to Rs.7,28,690-04 ps. (Rs.42,864-12 ps. x 17) rounded off to Rs.7,29,000/-.

8. 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 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. This Court is also inclined to grant an amount of Rs.1,000/- towards hospital expenses. Thus, the appellants-claimants are entitled for a total compensation of Rs.8,00,000/- (Rupees eight lakhs

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[1] AIR 2009 SC 3104

[2] 2017 (6) ALD 170 (SC)

only) (Rs.7,29,000/- + Rs.40,000/- + Rs.15,000/- + Rs.15,000/- + Rs.1,000/-). The Tribunal awarded interest at the rate of 7.5% per annum on the amount granted as compensation from the date of petition till realisation, which is just and reasonable.

9. Accordingly, this appeal is allowed in part, modifying the order, dated 05.10.2005, passed in M.V.O.P.No.671 of 2002 by the Tribunal, enhancing the compensation from Rs.4,01,000/- to Rs.8,00,000/- 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 enhanced compensation, the appellants-claimants are permitted to withdraw the entire amount along with the interest accrued thereon. Other terms of the Order under challenge remain unaltered. The apportionment of the enhanced compensation shall be as under:

1st appellant (wife)	:	Rs.1,50,000/-
2nd appellant (son)	:	Rs.62,250/-
3rd appellant (daughter)	:	Rs.62,250/-
4th appellant (father)	:	Rs.62,250/-
5th appellant (mother)	:	Rs.62,250/-
TOTAL	:	Rs.3,99,000/-

Miscellaneous Petitions pending, if any, shall stand closed. There shall be no order as to costs.

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Dr. SHAMEEM AKTHER, J

23rd July, 2018
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