THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2797 OF 2005

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 02.05.2000 in M.V.O.P.No.590 of 1998 on the file of the Motor Accident Claims Tribunal-cum-III Additional District Judge, Guntur (for short 'the Tribunal').

2. Heard the learned counsel for appellants-claimants, the learned Standing Counsel for 2nd respondent-Insurance Company and perused the record.

3. Learned counsel for the appellants-claimants would contend that there are five dependents on the deceased. The Tribunal deducted only 1/3rd towards personal expenses of the deceased. The suitable multiplier for the age of the deceased is '16', but the Tribunal applied the multiplier '15'. The deceased was doing gold business and earning Rs.4,000/- to Rs.5,000/- per month. The Tribunal took very meagre amount towards his earnings. The grant of compensation on other heads is also meagre and ultimately, prayed to enhance the compensation.

4. On the other hand, learned counsel for the respondent-insurance company would contend that the Tribunal had taken all the facts and circumstances into consideration and granted just and reasonable compensation. There are no circumstances to enhance the compensation and ultimately prayed to dismiss the appeal.

5. In view of the submissions made by both sides, the only point that emerges for determination is, whether the appellants are entitled for enhancement of compensation?

6. There is no dispute with regard to the death of the deceased-Shaik Karimulla in a motor accident that occurred on 10.05.1998 due to the rash and negligent driving of the driver of lorry bearing No.ABV-5916 and also valid insurance policy to the said lorry on the date of accident.

7. Though P.W.1-wife of the deceased deposed that her husband was earning Rs.4,000/- to Rs.5,000/- per month, no document was filed to substantiate the same. The Tribunal took the monthly income of the deceased at Rs.1,200/-, deducted 1/3rd thereof towards his personal expenses and applied multiplier '15' and assessed Rs.1,44,000/- towards loss of dependency. The Tribunal also assessed Rs.5,000/- towards loss of consortium and Rs.2,000/- towards funeral expenses. In all, the Tribunal granted Rs.1,51,000/- towards compensation.

8. As per the evidence placed on record, the deceased was an earning member and the claimants were dependents on him. The Tribunal took his monthly income as Rs.1,200/-, which is meagre. Hence, the monthly income of the deceased including future hike, etc., can be taken as Rs.1,800/-, which comes to Rs.21,600/- per annum. Since there are five dependents, 1/4th thereof is liable to be deducted towards personal expenses of the deceased. After deducting the same, the net contribution to his family comes to Rs.16,200/-. The suitable multiplier for the age (32 years) 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 '16'. After applying the multiplier '16', the loss of dependency comes to Rs.2,59,200/-, which is rounded to Rs.2,59,000/-. The appellants-claimants are entitled for the said amount towards loss of dependency.

9. Since the accident occurred in the year 1998, an amount of Rs.25,000/- is awarded towards loss of consortium, Rs.10,000/- towards funeral expenses and another Rs.10,000/- towards loss of estate and loss of love and affection. In total, the appellants-claimants are entitled for a compensation of Rs.3,04,000/- (Rs.2,59,000/- + Rs.45,000/-) with interest @ 7.5% per annum on the enhanced compensation from the date of petition till the date of deposit.

10. In the result, the appeal is partly allowed modifying the order, dated 02.05.2000, passed by the Tribunal in M.V.O.P.No.590 of 1998 enhancing the compensation from Rs.1,51,000/- to Rs.3,04,000/- with interest @ 7.5% per annum on the enhanced compensation from the date of petition till the date of deposit. Out of the 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 equally. The other directions in the impugned order remain unaltered. On deposit of the enhanced compensation, the appellants/claimants are permitted to withdraw the same along with the interest accrued thereon as per their apportionment.

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[1] 2009 (6) SCC 121

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

Dr. SHAMEEM AKTHER, J

Date: 24.08.2018
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