THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3218 of 2005

JUDGMENT:

Aggrieved by the grant of compensation of Rs.1,76,000/- as against a claim of Rs.2,50,000/-, vide order, dated 10.12.2004, passed in O.P.No.1210 of 2002 by the Motor Accident Claims Tribunal-cum-IX Additional Chief Judge (FTC), City Civil Court, Hyderabad ('the Tribunal', for brevity), the claimants preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity), seeking enhancement of compensation.

2. Heard both sides. Perused the record.

3. The learned counsel for the appellants-claimants would contend that the deceased-M.Krishna was aged 37 years as on the date of subject accident. He was a Mason and was earning Rs.5,000/- per month and supporting his family members. The Tribunal granted a meagre compensation of Rs.1,60,000/- towards loss of dependency and also granted meagre compensation under different heads and ultimately prayed to enhance the compensation as claimed.

4. On the other hand, the learned Standing Counsel for the 2nd respondent-Insurance Company would contend that the Tribunal had taken all the relevant factors into consideration and granted just and reasonable amount as compensation. There are no circumstances to enhance the same and ultimately

prayed to dismiss the appeal by confirming the order under challenge.

5. It is not in dispute that the deceased-M.Krishna died in a road accident occurred on 05.05.2002, due to rash and negligent driving of the driver of the auto bearing registration No.AP-13-W-3993. The only point that arises for determination in this appeal is whether the appellants-claimants are entitled for enhancement of the compensation as claimed.

6. The appellants-claimants are the wife, children and mother of the deceased. As per the criminal case record under Exs.A.1 to A.3 and Ex.A.6, the age of the deceased was 37 years as on the date of accident. There is no specific evidence to hold that the deceased was a Mason. Since there are six dependants on the deceased, it can be held that the deceased was an earning member and was supporting his family. The Tribunal took the annual income of the deceased as Rs.15,000/-. The subject accident occurred on 05.05.2002. The earning capabilities of the persons in those days were not much. Under these circumstances, this Court is inclined to take the monthly income of the deceased at Rs.1,500/-. Since there are six dependants on the deceased, 1/4th of the income is to be deducted towards his personal expenses. So, the annual loss of dependency would come to Rs.13,500/- (Rs.1,125/- x 12). As per the decision of the Apex Court in the case between Sarla Verma v. Delhi Transport Corporation[1], the suitable multiplier applicable to the age of the deceased (37 years) is '15'. So, the total loss of

[1] AIR 2009 SC 3104

dependency would come to Rs.2,02,500/- (Rs.13,500/- x 15). Further, the 1st appellant-wife of the deceased is entitled for Rs.25,000/- towards loss of consortium, the appellants-claimants are entitled for Rs.12,500/- towards loss of estate and another Rs.10,000/- towards funeral expenses. In all, the appellants-claimants are entitled for a compensation of Rs.2,50,000/- as claimed (Rs.2,02,500/- + Rs.25,000/- + Rs.12,500/- + Rs.10,000/-). The Tribunal granted interest @ 9% per annum from the date of petition till realisation on the compensation awarded. This Court deems it appropriate to grant interest @ 7.5% per annum on the enhanced amount of compensation from the date of petition till realisation.

7. Accordingly, this appeal is allowed, modifying the order, dated 10.12.2004, passed in O.P.No.1210 of 2002 by the Tribunal, enhancing the compensation from Rs.1,76,000/- to Rs.2,50,000/-. The enhanced amount of compensation carries interest at the rate of 7.5% per annum from the date of petition till realisation. On deposit of the enhanced compensation, the 1st appellant-wife of the deceased is entitled to withdraw the entire enhanced compensation along with interest accrued thereon. Other terms of the Order under challenge remain unaltered. No costs.

Pending Miscellaneous Petitions, if any, shall stand closed.

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Dr. SHAMEEM AKTHER, J

29th August, 2018
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