THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

C.M.A. No.1287 OF 2005

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), by the appellants-Insurance Company aggrieved by the order dated 23.03.2005 in O.P.No.348 of 2002 on the file of the Chairman, Motor Accident Claims Tribunal-cum-District Judge, Adilabad (for short, 'the Tribunal').

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

3. Learned Standing Counsel for the appellants-Insurance Company would contend that the Tribunal had granted excess compensation by applying multiplier '13' for the age of 50, but the correct multiplier is '11'. He further contended that the Tribunal granted interest @ 9% per annum, but it ought to have granted interest @ 7.5% per annum only and ultimately, prayed to reduce the compensation awarded in favour of the respondents-claimants.

4. Learned counsel for the respondents-claimants would contend that the Tribunal has taken all the facts and circumstances into consideration and granted just and reasonable compensation. There are no circumstances to interfere with the order under challenge and ultimately prayed to dismiss the appeal.

5. In view of the submissions made by both sides, the following points have come up for determination:-

1. Whether the grant of compensation of Rs.7,54,000/- is just and reasonable?
2. Whether the grant of interest @ 9% per annum is excessive?
3. Whether the compensation granted in favour of the respondents-claimants is liable to be reduced?

6. There is no dispute with regard to the death of the deceased-Jaysree Kevath in a road accident caused by lorry bearing No.AP 16 X 2666 being driven by its driver in rash and negligent manner on 09.12.2001. The only dispute is with regard to quantum of compensation and interest awarded thereon.

7. As per the documents and the evidence on record, the deceased was Singareni Collieries employee and was aged 50 years. There is Ex.A6-salary certificate to substantiate the same and showing the salary as Rs.9,000/- per month. The Tribunal took the monthly income of the deceased as Rs.7,200/-, which comes to Rs.86,400/- per annum. After deducting 1/3rd from the said amount towards the personal expenses of the deceased, the Tribunal assessed Rs.57,600/- as contribution to his family. In view of the decision rendered in *Smt.Sarla Verma and others Vs. Delhi Transport Corporation and another*[1], the suitable multiplier to the age of 50 is '13'. Therefore, the Tribunal applied the multiplier '13', and awarded Rs.7,48,800/- towards compensation. The Tribunal had also

[1] 2009 (6) SCC 121

granted Rs.5,000/- towards conventional heads. There is justification for doing so. The total compensation awarded by the Tribunal is Rs.7,54,000/- with interest @ 9% per annum.

8. It is appropriate to state that though the salary of the deceased is Rs.9,000/- per month, the Tribunal had taken into consideration his net salary at Rs.7,200/- per month. Further, it did not take into consideration any annual hike in the net salary of the deceased. Therefore, the grant of interest @ 9% per annum by the Tribunal can be justified. The appeal is devoid of merit and it is liable to be dismissed.

9. In the result, the appeal is dismissed. No costs.

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

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Dr. SHAMEEM AKTHER, J

Date: 20.06.2018
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