

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2201 OF 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellants/claimants aggrieved by the grant of compensation of Rs.6,02,400/- as against a claim of Rs.9,80,000/- by the learned Chairman, Motor Accident Claims Tribunal – cum - District Judge, Guntur (for short, “the Tribunal”) *vide* order, dated 04.02.2005, passed in M.V.O.P.No.978 of 2000.

2. Heard the submissions of the learned counsel appearing for the appellants/claimants. Though this matter is posted today under the caption “For Orders”, there is no representation on behalf of the 2nd respondent/Oriental Insurance Company Limited. Even earlier, on different dates also, there was no representation on behalf of the 2nd respondent. The appeal pertains to the year 2005. So, it can be disposed of basing on the record available.

3. Learned counsel for the appellants/claimants would contend that the Tribunal granted compensation of Rs.6,02,400/- as against a claim of Rs.9,80,000/- with interest at the rate of 9% per annum from the date of petition till the date of realization on account of the death of one Salagala Padma Rao, who died in a motor accident that occurred on 20.07.2000 (hereinafter, referred to as “the deceased”) and the same is meagre; that the deceased was 44 years at the time of the accident and the Tribunal has taken multiplier “12”, but the correct multiplier as per **Sarla**

Verma v. Delhi Transport Corporation¹'s case is "15"; that the Tribunal had granted a meagre amount under conventional heads 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, the short point that falls for determination is:

"Whether the appellants/claimants are entitled for enhancement of compensation as prayed?"

5. **POINT:-** The Tribunal, on account of the death of the deceased on 20.07.2000 in a motor accident due to the rash and negligent driving of the driver of the Van bearing No.AP 31T-8895 Tata 407-LGV, granted compensation of Rs.6,02,400/- as against a claim of Rs.9,80,000/- with interest at the rate of 9% per annum from the date of petition till the date of realization. The Tribunal took the age of the deceased as 44 years and applied the multiplier "12" taking the net salary of the deceased at Rs.5,971/- per month. After deducting 1/3rd of the said amount towards personal expenses, took annual loss of dependency at Rs.47,700/- and assessed the loss of dependency as Rs.5,72,400/-. Thereafter, the Tribunal added Rs.15,000/- towards loss of consortium to the 1st claimant and another Rs.15,000/- towards loss of estate and pain and suffering, and in all, granted a compensation of Rs.6,02,400/-. It is apt to refer to the decision of **Sarla Verma**'s case (1 cited supra) wherein for the age of 44, the suitable multiplier is "14". Therefore, the amount payable towards loss of dependency comes to Rs.47,700/- x 14 = Rs.6,67,800/-. It is apt to refer to the recent

¹ AIR 2009 SC 3104

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.

6. Thus, the appellants/claimants are entitled for a total compensation of Rs.7,37,800/- (Rs.6,67,800/- + Rs.40,000/- + Rs.15,000/- + Rs.15,000/-) and the same is rounded to Rs.7,38,000/- (Rupees seven lakhs thirty eight thousand only) with interest at the rate of 7.5% per annum from the date of application till the date of realization only on the enhanced amount of compensation.

7. Accordingly, this appeal is allowed in part modifying the order, dated 04.02.2005, passed in M.V.O.P.No.978 of 2000 by the Tribunal, enhancing the compensation from Rs.6,02,400/- to Rs.7,38,000/- with interest at the rate of 7.5% per annum only on the enhanced amount of compensation i.e., Rs.1,35,600/- from the date of petition till realisation. The 1st appellant/1st claimant, who is the wife of the deceased, is entitled to 50% of the enhanced compensation i.e., Rs.67,800/- and interest thereon. The other appellants/claimants 2 to 6 are entitled to share the remaining

² 2017 (6) ALD 170 (SC)

amount i.e., Rs.67,800/- and interest thereon equally. There is no change in the other conditions or directions imposed by the Tribunal. On deposit of the compensation, the appellants/claimants are permitted to withdraw the entire amount along with the accrued interest. There shall be no order as to costs.

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

DR.JUSTICE SHAMEEM AKTHER

Date : 05.07.2018
AMD



THE HON'BLE DR.JUSTICE SHAMEEM AKTHER



M.A.C.M.A.No.2201 OF 2005

Date: 05.07.2018

AMD