

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.M.P.No.5286 of 2007

in/ and

M.A.C.M.A. No.2153 OF 2007

JUDGMENT:

The appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), by the appellant-Insurance Company aggrieved by the order dated 22.03.2007 in O.P.No.3125 of 2005 on the file of the Motor Accident Claims Tribunal-cum-III Additional Chief Judge, City Civil Court, Hyderabad (for short, 'the Tribunal').

2. M.A.C.M.A.M.P.No.5286 of 2007 is filed by the appellant to receive the document i.e., identity card of the deceased issued by the Election Commission of India.

3. Heard the learned counsel for the appellant-Insurance Company and perused the record.

4. No representation for the respondents-claimants. This appeal is of the year 2007. Hence, it can be disposed of on merits.

5. Learned counsel for the appellant-Insurance Company would contend that as per the voter identity card, the age of the deceased was 51 years but in the post-mortem report, it was mentioned as 40 years. The Tribunal has taken the age of the deceased as 40 years, applied the multiplier '15' and granted compensation of Rs.5,02,000/-, which is erroneous and ultimately, prayed to reduce the same.

6. In view of the submissions made on behalf of the appellant, the points for determination are:-

1. Whether the compensation granted by the Tribunal is liable to be reduced?
2. Whether MACMA MP No.5286 of 2007 has to be allowed?

7. It is not in dispute that the deceased-Ram Reddy died in a road accident that occurred on 20.09.2005 due to the rash and negligent driving of the driver of the car bearing registration No.AP 09 AY 8171. The only dispute is with regard to application of appropriate multiplier to assess the compensation for loss of dependency. Basing on the oral and documentary evidence as well as Ex.A2-copy of post-mortem report, the Tribunal took the age of the deceased as 40 years, applied relevant multiplier and assessed the compensation at Rs.4,80,000/- towards loss of dependency. The Tribunal also granted Rs.10,000/- towards loss of consortium, Rs.2,000/- towards funeral expenses and Rs.10,000/- towards loss of estate. In total, the Tribunal granted compensation of Rs.5,02,000/- to the claimants.

8. When there is oral evidence and post-mortem report, there is nothing wrong on the part of the Tribunal in taking the age of the deceased as per post-mortem report. Even if the application to receive additional evidence is considered, there will not be any change in the assessment and award of compensation.

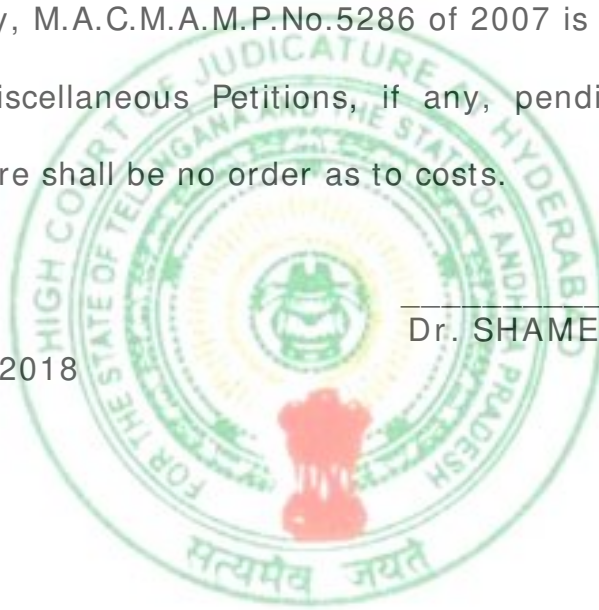
9. If the age of the deceased is taken as 51 years, there will be a slight deviation in the figure of multiplier. Further, the Tribunal has not granted compensation under conventional heads as per the decision of the *National Insurance Company Limited v. Pranay Sethi and others*¹. If the said decision is taken into consideration, there will be much difference with regard to assessment and award of compensation in favour of the claimants.

10. Under these circumstances, the appeal is dismissed. Consequently, M.A.C.M.A.M.P.No.5286 of 2007 is dismissed.

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

Date: 09.07.2018
ssp

Dr. SHAMEEM AKTHER, J



¹ 2017(6)ALD 170(SC)