

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A. No.1662 OF 2005

JUDGMENT:

Dissatisfied with the quantum of compensation of Rs.3,75,600/- awarded by the Chairman, Motor Accident Claims Tribunal-cum-I Additional District Judge, Nizamabad ('the Tribunal' for brevity), vide order, dated 04.03.2005, passed in O.P.No.1394 of 2001, as against the total claim of Rs.10,00,000/-, the claimants preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity) seeking enhancement of compensation.

2. Heard the learned counsel for the appellants-petitioners, the learned counsel for respondent No.2-Insurance Company and perused the record.

3. The parties hereinafter are referred to as arrayed before the Tribunal.

4. Learned counsel for the appellants-petitioners would contend that the Tribunal had taken monthly wages of the deceased as Rs.2,400/- though he was earning more than Rs.3,000/- per month. The Tribunal had granted lesser compensation to the petitioners under conventional heads and ultimately prayed to enhance the compensation to Rs.10,00,000/- as claimed.

5. On the other hand, learned counsel for the 2nd respondent-Insurance Company would contend that the Tribunal had taken into consideration all the aspects and granted adequate, just and reasonable

compensation. There is nothing to take a different view and ultimately prayed to dismiss the appeal.

6. There is no dispute with regard to the death of Kasula Sudarshan Goud @ Sudarshan Goud in the motor accident, which occurred on 18.10.2001, due to rash and negligent driving of the driver of lorry bearing No.MH20 F 5438.

7. As far as the monthly income of the deceased is concerned, basing on the evidence on record, the Tribunal had rightly taken it as Rs.2,400/- per month and calculated loss of dependency payable to the petitioners as Rs.3,45,600/-. There is nothing to take a different view.

8. The Tribunal has granted Rs.15,000/- towards loss of consortium, Rs.10,000/- towards loss of estate and Rs.5,000/- towards transportation expenses. It is apt to refer to the recent decision of the Apex Court in **National Insurance Co. Ltd., Vs. Pranay Sethi and others¹**, 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 2nd appellant/2nd petitioner (wife) towards loss of consortium, Rs.15,000/- to the appellants-petitioners towards loss of estate and another Rs.15,000/- towards funeral

¹ 2017 (6) ALD 170 (SC)

expenses. Thus, the appellants-petitioners are entitled for a total compensation of Rs.4,15,600/- (Rupees four lakhs fifteen thousand six hundred only) (Rs.3,45,600/- + Rs.40,000/- + Rs.15,000/- + Rs.15,000/-).

9. Accordingly, the appeal is allowed in part modifying the order, dated 04.03.2005, passed by the Tribunal, enhancing the compensation from Rs.3,75,600/- to Rs.4,15,600/- with interest at the rate of 7.5% per annum on the enhanced compensation amount from the date of petition till date of deposit. On deposit of the compensation, the appellants-petitioners are permitted to withdraw the entire amount along with the accrued interest. The apportionment of compensation shall be as under:

1 st appellant (mother)	:	Rs.1,00,000/-
2 nd appellant (wife)	:	Rs.2,15,600/-
3 rd appellant (sister)	:	Rs.50,000/-
4 th appellant (brother)	:	Rs.50,000/-
TOTAL	:	Rs.4,15,600/-

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

Dr. SHAMEEM AKTHER, J

Date: 05.06.2018
ssp