

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.1540 OF 2005

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), by the appellants-claimants aggrieved by the order dated 31.03.2005 in O.P.No.1274 of 1999 on the file of the Motor Accident Claims Tribunal-cum-V Additional District Judge (Fast Track Court), Ranga Reddy District at L.B. Nagar, Hyderabad.

2. Heard the learned counsel for appellants-claimants, learned counsel for respondent No.4-United Insurance Company and perused the record. The appeal against respondent Nos.1 and 3 was dismissed for default on 03.01.2012. There is no representation for respondent No.2-Oriental Insurance Company.

3. Learned counsel for the appellants-claimants would contend that the Tribunal granted compensation of Rs.68,000/- with interest @ 9% per annum, which is meagre. The deceased was 65 years old. The Tribunal applied wrong multiplier. The Tribunal has not awarded adequate amount on conventional heads and ultimately prayed to enhance the compensation.

4. Learned Standing Counsel appearing for respondent No.2-Oriental Insurance Company would contend that the Tribunal after taking into consideration of all the facts and circumstances, awarded just and reasonable compensation. Further, the award of interest @ 9% per annum is erroneous and ultimately, prayed to dismiss the appeal.

5. Learned Standing Counsel appearing for respondent No.4-United India Insurance Company also contended that the Tribunal

erroneously apportioned the liability against this respondent and ultimately, prayed to dismiss the appeal.

6. In view of the submissions made by both sides, the points that arise for determination are:-

1. Whether the Tribunal justified in apportioning the liability against respondent Nos.1 to 4 by directing respondent Nos.1 and 2 to pay 50% and respondent Nos.3 and 4 to pay the remaining 50% of the awarded compensation with interest thereon?
2. Whether the appellants are entitled for enhancement of compensation?

7. Admittedly, no appeals are preferred by both the insurance companies against apportioning the liability in the ratio of 50% on respondents 1 and 2 and remaining 50% on respondents 3 and 4. The Tribunal, while dealing with the claim, recorded its finding that the drivers of both the vehicles viz., Ambassador car bearing registration No.ABF 2289 and DCM van bearing registration No.AP12T 4314 drove their respective vehicles in a rash and negligent manner at high speed and as a result of which, the accident occurred on 27.05.1999 and the deceased-M.A.Kareem, who was travelling in the former vehicle, died. There is nothing to take a different view.

8. As far as grant of compensation is concerned, the Tribunal granted Rs.68,000/- to the appellants-claimants. The deceased was 65 years old. Under Ex.A3 inquest report, his age is shown as 68 years. The Tribunal took the age of the deceased as 65 years and his monthly income as Rs.1,500/-, deducted 1/3rd towards his personal expenses, applied multiplier '5' and assessed the compensation at Rs.60,000/- towards loss of dependency. The Tribunal also granted Rs.5,000/- towards non-pecuniary damages, Rs.2,000/- towards funeral expenses

and Rs.1,000/- towards transportation. In total, the Tribunal granted Rs.68,000/- towards compensation.

9. As per the decision rendered in *Smt.Sarla Verma and others Vs. Delhi Transport Corporation and another*¹ case, the suitable multiplier for the age of the deceased is '7'. Hence, the appellants are entitled to Rs.84,000/- (Rs.12,000 x 7) towards loss of dependency. Further, the appellants are entitled to Rs.16,000/- towards funeral expenses and loss of estate.

10. Accordingly, the appeal is allowed in part modifying the order, dated 31.03.2005 passed by the Tribunal in O.P.No.1274 of 1999, enhancing the compensation from Rs.68,000/- to Rs.1,00,000/- with interest @ 7.5% per annum on the enhanced amount of compensation from the date of petition till the date of deposit. On deposit of the compensation, the appellants-claimants are permitted to withdraw the entire amount with interest equally. There is no change in the other directions given by the Tribunal.

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

Dr. SHAMEEM AKTHER, J

Date: 27.07.2018
ssp

¹ 2009 (6) SCC 121