THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.216 OF 2005

JUDGMENT:

This 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 16.04.2004 in O.P.No.451 of 2001 on the file of the Motor Accident Claims Tribunal-cum-Additional District Judge, Nizamabad (for short, 'the Tribunal').

2. Heard the learned Standing Counsel for the appellant-Insurance Company, the learned counsel for the respondents-claimants and perused the record. The appeal against respondent No.9 was dismissed for default on 08.02.2016.

3. Learned Standing Counsel for the appellant-Insurance Company would contend that the Tribunal had granted excess compensation on different heads. Further, the rate of interest at 9% per annum granted by the Tribunal is also excess and ultimately, prayed to reduce the same.

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 point that arises for determination is, whether the compensation granted by the Tribunal as well as interest thereon is liable to be reduced?

6. As seen from the material placed before this Court, the deceased-Gangadhar died in a road accident that occurred on 10.12.2000 due to the rash and negligent driving of the driver of van bearing No.AHT 7195. The deceased-Gangadhar was aged 42 years. As per the post mortem report, he was aged 50 years. The Tribunal taking into consideration the post mortem report and criminal case record, held that the deceased was 50 years old. The Tribunal has taken the annual income of the deceased at Rs.36,000/-. After deducting 1/3rd from the said amount towards the personal expenses of the deceased and after applying relevant multiplier '13', the Tribunal assessed Rs.3,12,000/- towards loss of dependency. The Tribunal also assessed Rs.15,000/- towards loss of consortium, Rs.15,000/- towards loss of estate and Rs.3,000/- towards funeral expenses. In all, the Tribunal granted Rs.3,45,000/- towards compensation.

7. In view of the decision in *National Insurance Co. Ltd., Vs. Pranay Sethi and others*[1], the respondents-claimants are entitled for a sum of Rs.70,000/- towards conventional heads, but the Tribunal had granted Rs.33,000/- under conventional heads. Under these circumstances, the grant of interest @ 9% per annum on the above said compensation awarded by the Tribunal can be justified. There is no infirmity in

[1] 2017 (6) ALD 170 (SC)

the impugned order. The Tribunal rightly calculated the compensation and awarded the same to the respondents-claimants. There are no circumstances to vary. The appeal is devoid of merit and is liable to be dismissed.

8. 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: 10.08.2018
ssp