

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

C.M.A.No.3446 OF 2004

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.3,83,741/- with proportionate costs and interest at the rate of 9% per annum from the date of petition till the date of realisation as against a claim of Rs.7,00,000/-, by the learned Chairman, Motor Vehicle Accident Claims Tribunal – cum – I Additional District Judge, Karimnagar (for short, “the Tribunal”) *vide* order, dated 06.04.2004, passed in O.P.No.640 of 2000.

2. Heard the submissions of the learned counsel appearing for the appellants/claimants, learned Standing Counsel for the Oriental Insurance Company Limited appearing for respondent No.3, and perused the material on record.

3. Learned counsel for the appellants/claimants would contend that the Tribunal granted compensation of Rs.3,83,741/- with proportionate costs and interest at the rate of 9% per annum from the date of petition till the date of realisation as against a claim of Rs.7,00,000/- on account of the death of one Donthula Narsaiah @ Reddanna, who died in a motor accident that occurred on 30.09.1997, and the same is meagre; that the deceased was 38 years at the time of the accident and he was a permanent employee of the Singareni Collieries Company Limited earning Rs.6,800/- per month and there is Ex.A-6 – salary certificate to substantiate the same; that relying on the decision in Bhagwan Das vs. Mohd. Arif (reported in 1987 (2) ALT 137), the Tribunal had taken the

multiplier “12.79”, but the correct multiplier as per **Sarla Verma v. Delhi Transport Corporation**¹’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. On the other hand, learned Standing Counsel for the Oriental Insurance Company Limited appearing for respondent No.3 would contend that the Tribunal took all the factors into consideration and justified in granting an amount of Rs.3,83,741/- with proportionate costs and interest at the rate of 9% per annum from the date of petition till the date of realisation; that the Tribunal granted Rs.15,000/- towards loss of consortium to claimant No.1, Rs.15,000/- to all the claimants towards loss of estate, Rs.2,500/- towards funeral expenses and Rs.1,000/- towards transportation of the dead body of the deceased to their house; that there are no circumstances to enhance the compensation and ultimately, prayed to dismiss the appeal.

5. In view of the submissions made by the learned counsel for both sides, the short point that falls for determination is:

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

6. **POINT:-** There is no dispute with regard to the deceased Donthula Narsaiah succumbing to injuries in a motor vehicle accident that occurred on 30.09.1997 due to the rash and negligent driving of the driver of the jeep bearing No.OSP 1011.

¹ AIR 2009 SC 3104

The only dispute is with regard to enhancement of compensation. As per Ex.A-6 – salary certificate and the evidence of P.W.2, who is the employer of the deceased Donthula Narsaiah, the deceased was working as a Dump Operator in the Singareni Collieries Company Limited, Godavarikhani and his monthly salary was Rs.6,217.81 ps, which includes Basic pay, U/G, all D.As., and other allowances. As per Ex.A-7 – Service Certificate of the deceased, he was born on 09.03.1959 and he worked as an Electrician E.C.No.0821 147 at GDK No.3 incline from 10.04.1981 to 30.09.1997. Relying on the evidence of P.W.2, the Tribunal held that the deceased was 38 years as on the date of accident. As per **Sarla Verma's** case (1 supra), the suitable multiplier for the age of 38 years is “15”. The same is required to be taken into consideration. The salary certificate of the deceased includes U/G amount of Rs.370.60 ps. and other amounts of Rs.1,362.61 ps. The Tribunal took the salary of the deceased as Rs.3,425/-. So the Tribunal ought to have taken the basic as well as the amount towards Dearness Allowance and some hike in the salary, to assess and award the compensation. Therefore, the monthly salary of the deceased Donthula Narsaiah can be taken as Rs.5,000/-, which includes future hike. Since there are three dependants, 1/3rd thereof is liable to be deducted towards the personal expenses of the deceased and 2/3rd thereof is liable to be taken as contribution to the claimants. So, the loss of dependency payable to the claimants comes to Rs.5,000/- x 2/3 = Rs.3,333.33 ps. per month and Rs.39,999.96 ps. per annum. By applying the multiplier “15”, it comes to Rs.39,999.96 ps. x 15 = Rs.5,99,999.40 ps. and the same is rounded to Rs.6,00,000/-.

7. It is apt to refer to the recent decision of the Apex Court in **National Insurance Co. Ltd., Vs. Pranay Sethi and others²**, 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.

8. Thus, the appellants/claimants are entitled for a total compensation of Rs.6,70,000/- (Rs.6,00,000/- + Rs.40,000/- + Rs.15,000/- + Rs.15,000/-) (Rupees six lakhs seventy thousand only) with interest at the rate of 7.5% per annum from the date of application till the date of realization on the enhanced amount of compensation.

9. Accordingly, this appeal is allowed in part modifying the order, dated 06.04.2004, passed in O.P.No.640 of 2000 by the Tribunal, enhancing the compensation from Rs.3,83,741/- to Rs.6,70,000/- with interest at the rate of 7.5% per annum on the enhanced amount of compensation from the date of petition till the date of realisation. Appellant No.1/claimant No.1, who is the wife of the deceased, is entitled to 50% of the enhanced compensation and interest thereon. Appellant Nos.2 and 3/claimant Nos.2 and 3

² 2017 (6) ALD 170 (SC)

are entitled to share the remaining enhanced amount 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 as apportioned above. There shall be no order as to costs.

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

Date : 17.08.2018
AMD

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