THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3324 of 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellant/The New India Assurance Company Limited, aggrieved by the grant of compensation of Rs.4,27,500/- as against a claim of Rs.6,00,000/- to the respondents 1 to 3/claimants, by the Chairman, Motor Accident Claims Tribunal-cum-II Additional District Judge, Nalgonda at Surpayet ('the Tribunal', for brevity), vide order, dated 24.11.2004, passed in O.P.No.240 of 2004 (Old O.P.No.870 of 2003).

2. Heard the learned Standing Counsel for appellant-Insurance Company, the learned counsel for respondents 1 to 3/claimants and perused the record.

3. The learned Standing Counsel for the appellant-insurance company would contend that the Tribunal had taken the monthly income of the deceased-Palakuri Venkanna as Rs.3,000/-, which is excessive. There is no basis for taking the monthly income of the deceased as Rs.3,000/-. Further, the Tribunal had applied multiplier '18' instead of '17' and also granted high rate of interest on the amount granted as compensation. Grant of compensation of Rs.4,27,500/- is excessive and ultimately prayed to reduce the amount granted as compensation.

4. On the other hand, the learned counsel for respondents 1 to 3/claimants would contend that the Tribunal had assessed, calculated and awarded just and reasonable amount as

compensation. There are no circumstances to vary or reduce the same and ultimately prayed to dismiss the appeal.

5. It is not in dispute that the deceased-Palakuri Venkanna died in a motor accident that occurred on 21.05.2003 due to the rash and negligent driving of the driver of the lorry bearing registration No.AP-26-T-2797. So, the only question that arises for determination in this appeal is whether the compensation granted by the Tribunal to the respondents 1 to 3/claimants is liable to be reduced.

6. In the Post-mortem Examination report and criminal case records, the age of the deceased was shown as 28 years as on the date of the accident. As per the judgment of the Apex court in case between Sarla Verma v. Delhi Transport Corporation[1], the appropriate multiplier applicable to the age of the deceased (28 years) is 18. Therefore, the Tribunal rightly applied multiplier 18 to the age of the deceased. The same cannot be held erroneous. Further, the Tribunal, relying on the evidence of P.W.1 (wife of the deceased) and P.W.3 (employer of the deceased), determined the monthly income of the deceased as Rs.3,000/- and after deducting 1/3rd of it towards personal expenses and by applying multiplier '18', awarded an amount of Rs.4,08,000/- towards loss of dependency. The Tribunal also awarded an amount of Rs.15,000/- to the 1st respondent (wife of the deceased) towards loss of consortium, Rs.2,000/- towards funeral expenses, Rs.2,500/- towards loss of estate. In all, the Tribunal awarded a compensation of Rs.4,27,500/- to the respondents 1 to 3/claimants. Admittedly, the

[1] AIR 2009 SC 3104

Tribunal had not taken into consideration future hike in the salary of the deceased. Further, the Tribunal granted some amounts under conventional heads. So, grant of interest at the rate of 9% per annum on the amount awarded as compensation from the date of filing of the petition till the date of deposit also cannot be faulted. In view of the facts and circumstances of the case, it cannot be held that grant of compensation of Rs.4,27,500/- to the respondents 1 to 3/claimants by the Tribunal along with 9% rate of interest from the date of filing of petition till the date of deposit, is excessive. There are no justifiable grounds to interfere with the impugned order of the Tribunal. The appeal is devoid of merit and is liable to be dismissed.

7. In the result, the appeal is dismissed.

Miscellaneous Petitions pending, if any, shall stand closed. No order as to costs.

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Dr. SHAMEEM AKTHER, J

14th June, 2018
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