

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

M.A.C.M.A. No. 2872 of 2012

JUDGMENT:

This appeal is arising out of the Award and Decree dated 03.05.2012 passed in M.V.O.P. No.672 of 2011 by the Chairman, Motor Accident Claims Tribunal-cum-Chief Judge, City Civil Court, at Hyderabad, granting compensation of Rs.5,70,000/- with interest at 6% per annum from the date of petition till realization.

2. Brief facts of the case are that on 21.06.2010, at about 5:10 PM, the deceased had almost crossed the road at JNTU, Rythubazar, and, at that time, a Maruthi Car bearing No.AP-10AN-3854 driven by its driver in a rash and negligent manner and at a high speed dashed the deceased. As a result, the deceased sustained grievous head injuries. Immediately, he was shifted to Ramdev Memorial Hospital and from there to Prime Hospital for treatment. On 24.06.2010, he succumbed to death while undergoing treatment. The Station House Officer, KPHB Police Station, registered a case in Crime No.99 of 2010 against the 1st respondent-owner of the offending Car, for the offence punishable under Section 304-A. Alleging that the accident occurred due to the rash and negligent driving by the driver of the offending Car, and stating that the deceased was earning Rs.10,000/- per month by working as a Fitter with one Ranjith Sarkar

Contractor, the claimants-legal heirs of the deceased filed a claim petition, M.V.O.P. No.672 of 2011 before the Tribunal claiming compensation of Rs.15,00,000/- against owner and insurer of the offending Car.

The 1st respondent-owner of the offending Car filed his written statement denying the allegations in the claim petition. He also denied the involvement of his car in the accident and contended that his car was implicated by the claimants for wrongful gain and that he was not aware of the crime registered against him in the KPHB Police Station.

The 2nd respondent-insurer filed its written statement denying the allegations in the claim petition. It is averred that there was no information from the Police concerned, and that on a mere registration of the FIR, without corroboration by investigation report and charge sheet, it cannot be construed that the accident took place. The insurer also denied that the offending Car was insured with it, and also denied possessing of valid and effective driving licence by the driver of the offending Car. It is contended that the mandatory provisions of the Motor Vehicles Act have not been complied with by the Police as well as the owner of the offending Car, and that the compensation claimed by the claimants is excessive and, therefore, sought for dismissal of the claim petition.

Basing on the pleadings, the Tribunal framed three issues. The first is with regard to the rash and negligent

driving by the driving of the offending Car; and the second is with regard to the entitlement of the claimants for compensation; and, third, with regard to the quantum of relief.

On behalf of the claimants, PWs.1 to 5 were examined, and documents Exs.A1 to A10 were marked. No oral evidence was adduced on behalf of the respondents, except marking Ex.B1-insurance copy on their behalf. Exs.X1 and X2 were marked in the evidence of PW.3, and Exs.X3 and X4 were marked in the cross examination of PW.5.

The Tribunal, considering the oral and documentary evidence available on record, has held that the accident occurred due to the rash and negligent driving by the driver of the offending Car, and, therefore, awarded compensation of Rs.5,70,000/- with interest at 6% per annum, against respondents 1 and 2 jointly and severally.

Aggrieved by the quantum of compensation awarded by the Tribunal, the claimants filed this appeal seeking enhancement of compensation.

3. Heard the arguments of the learned counsel for appellants, and the learned counsel for respondents.

4. Learned counsel for the appellant submitted that the dispute in this matter is only with regard to the determination of the income of the deceased for the purpose of calculation of compensation. The learned

counsel placed reliance on a judgment of the Hon' ble Supreme Court in **Shivakumar M. v. Managing Director, BMTC**¹ wherein the Hon' ble Supreme Court has taken into consideration the income of a daily wage worker as Rs.15,000/- per month in the absence of any proof of income. However, the learned counsel for the appellant, placing reliance on the said judgment, fairly submitted that reasonable income may be taken into consideration in the light of the evidence available on record, and award reasonable compensation.

5. Learned counsel for the respondents submitted that the respondents have no objection if reasonable amount of compensation is awarded taking into consideration the income of the deceased reasonably.

6. The deceased was 38 years old by the date of accident. He was a Fitter by profession. The Tribunal has clearly held that he was a skilled laborer and, having held so, the Tribunal has taken the income of the deceased as Rs.4,000/- per month. In the light of the submissions made by the learned counsel for the appellant and respondents, keeping in view the facts and circumstances of the present case, since the deceased was a skilled laborer, his income can be safely taken into consideration as Rs.7,000/- per month.

¹ IV (2017) ACC 51 (SC)

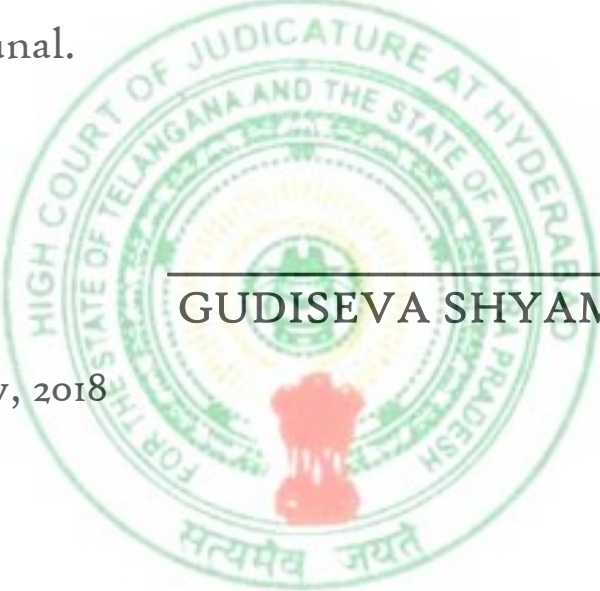
7. The multiplier applicable to the age of the deceased as per **Sarla Verma v. Delhi Transport Corporation²** is ‘15’. Therefore, the annual income of the deceased comes to Rs.84,000. Deducting $\frac{1}{3}^{\text{rd}}$ from his income towards personal expenditure, his annual contribution would come to Rs.56,000/-. Applying multiplier ‘15’, the loss of dependency would come to Rs.15 x 56,000 = Rs.8,40,000/-.

8. On consideration of the facts and circumstances of the case, and in the light of the evidence available on record, and in the light of the judgment of the Hon’ ble Supreme Court referred above, the compensation awarded by the Tribunal is enhanced as shown in the following tabular format:

S.No	Head	Compensation awarded by the Tribunal	Compensation enhanced
1.	Loss of dependency	Rs.4,80,000/-	Rs.8,40,000/-
2.	Loss of Consortium	Rs.10,000/-	Rs.10,000/-
3.	Loss of estate	Rs.5,000/-	Rs.5,000/-
4.	Funeral expenses	Rs.5,000/-	Rs.5,000/-
5.	Transport/ambulance charges	Rs.10,000/-	Rs.10,000/-
6.	Medical, nursing etc.	Rs.60,000/-	Rs.60,000/-
	Total	Rs.5,70,000/-	Rs.9,30,000/-

² (2009) 6 SCC 121

9. IN THE RESULT, the appeal is partly allowed, modifying the award passed by the tribunal, by enhancing the compensation from Rs.5,70,000/- to Rs.9,30,000/- with interest at 7.5% per annum, from the date of petition till realization, on the enhanced amount. The respondents are directed to deposit the compensation amount within one month from the date of receipt of copy of this order, and on such deposit the claimants are permitted to withdraw the amount as per the ratio fixed by the Tribunal.



GUDISEVA SHYAM PRASAD, J

14th February, 2018

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THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD



M.A.C.M.A. No. 2872 of 2012

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