

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER
CIVIL MISCELLANEOUS APPEAL No.4503 of 2004

JUDGMENT:

Aggrieved by the grant of compensation of Rs.99,000/- as against the claim of Rs.1,85,000/- by the Chairman, Motor Accidents Claims Tribunal-cum-III Additional District Judge, Guntur ('the Tribunal' for brevity), vide order, dated 24.08.2004, passed in M.V.O.P.No.572 of 2000, the claimants preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity) seeking enhancement of compensation.

2. Heard the learned counsel for the appellants-claimants. Though this matter is posted today under the caption 'For Orders', there is no representation on behalf of the 2nd respondent/insurance company, in spite of due service of notice. Therefore, without waiting for the Standing Counsel for the 2nd respondent-insurance company to advance arguments, this appeal can be disposed of on merits.

3. The learned counsel for the appellants-claimants would submit that the appellants-claimants are dependants on the deceased-Jonnalagadda Yasoda, who died in a motor accident that occurred on 09.05.2000. The appellants-claimants claimed a compensation of Rs.1,85,000/-, but the Tribunal had granted Rs.99,000/- towards compensation, which is meagre. The Tribunal had not applied the appropriate multiplier applicable to the age of the deceased and granted meagre compensation on

other functional heads and ultimately prayed to allow the appeal as prayed for.

4. As per the evidence placed on record, the deceased-Jonnalagadda Yasoda died in a motor accident that occurred on 09.05.2000 due the rash and negligent driving of the lorry bearing registration No.AP-16-W-5252. The rash and negligent driving of the driver of the lorry was proved by leading clinching and cogent evidence. So, the only question that arises for consideration in this appeal is whether the Tribunal awarded just and reasonable compensation to the appellants-claimants.

5. As per the evidence on record, the deceased used to earn Rs.50/- per day by doing coolie work and used to contribute the same to the appellants-claimants, who are her husband and children. The Tribunal had taken the annual income of the deceased as Rs.15,000/-, deducted 1/3rd towards her personal expenses, took the age of the deceased as 45 years and by applying multiplier 9, granted compensation of Rs.90,000/- towards loss of dependency. The Tribunal also granted an amount of Rs.5,000/- towards loss of consortium and Rs.4,000/- towards funeral expenses. In all, the Tribunal granted a total compensation of Rs.99,000/- to the appellants-claimants.

6. But, as per the judgment of the Apex court in case between Sarla Verma v. Delhi Transport Corporation¹, the appropriate multiplier applicable to the age of the deceased (45 years) is 14. Having regard to the facts and circumstances of

¹ AIR 2009 SC 3104

the case, this Court is inclined to take the annual income of the deceased as Rs.12,000/- per annum. If $1/3^{\text{rd}}$ is deducted towards her personal expenses, the loss of dependency would come to Rs.8,000/- per annum (Rs.12,000/- minus $1/3^{\text{rd}}$). Thus, the total loss of dependency would come to Rs.1,12,000/- (Rs.8,000/- x 14). This Court also deems it appropriate to award an amount of Rs.25,000/- to the 1st appellant/1st claimant (husband of the deceased) towards loss of consortium, Rs.10,000/- towards funeral expenses to the appellants-claimants and another Rs.25,000/- towards loss of estate. Thus, the appellants-claimants are entitled for a total compensation of Rs.1,72,000/- (Rupees one lakh seventy two thousand only) (Rs.1,12,000/- + Rs.25,000/- + Rs.10,000/- + Rs.25,000/-). The Tribunal awarded interest at the rate of 9% per annum on the amount of compensation from the date of deposit with proportionate costs and the same is reasonable in the facts and circumstances of the case.

7. Accordingly, this appeal is allowed in part modifying the order, dated 24.08.2004, passed by the Tribunal, enhancing the compensation from Rs.99,000/- to Rs.1,72,000/- with interest at the rate of 9% per annum from the date of petition till realisation on the enhanced compensation. On deposit of the compensation, the appellants-claimants are permitted to withdraw the entire amount along with the accrued interest. The other terms of the Order under challenge remain unaltered. The apportionment of compensation shall be as under:

1 st appellant (husband)	:	Rs.61,750/- (including loss of consortium of Rs.25,000/-
2 nd appellant (daughter)	:	Rs.36,750/-
3 rd appellant (son)	:	Rs.36,750/-
4 th appellant (daughter)	:	Rs.36,750/-
TOTAL	:	Rs.1,72,000/-

Miscellaneous Petitions pending, if any, shall stand closed.

No order as to costs.

Dr. SHAMEEM AKTHER, J

06th June, 2018
Bvv

