

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3599 of 2005

and

Cross Objections (SR) No.3781 of 2006

COMMON JUDGMENT:-

Challenging the Order, dated 15.07.2005, passed in O.P.No.2315 of 2003 by the Motor Accident Claims Tribunal-cum-II Additional Chief Judge, City Civil Court, Hyderabad ('the Tribunal', for brevity), the United India Insurance Company Limited preferred M.A.C.M.A.No.3599 of 2005 seeking to set aside the impugned Order and the claimants preferred Cross Objection (SR) No.3781 of 2006 seeking enhancement of compensation.

2. Heard the learned counsel for the claimants, the learned Standing Counsel for the United India Insurance Company Limited and perused the record. The parties are hereinafter referred to, as arrayed before the Tribunal.

3. The learned Standing Counsel for the appellant in MACMA No.3599 of 2005 and respondent No.1 in Cross Objection (SR) No.3781 of 2006 (Insurance Company) would contend that the Tribunal applied wrong multiplier '17' instead of '16' to the age of the deceased. Further, the Tribunal had taken the gross salary of the deceased into account and granted excess compensation under different heads and ultimately prayed to allow the appeal by setting aside the order under challenge.

4. On the other hand, the learned counsel for the Cross Objectors in Cross Objection (SR) No.3781 of 2006/respondents 1

to 4 in MACMA No.3599 of 2005 (claimants) would contend that the Tribunal granted a meagre compensation of Rs.8,32,600/- as against a claim of Rs.9,00,000/-. The Tribunal did not grant adequate compensation on different heads and ultimately prayed to enhance the compensation as claimed.

5. In view of the above rival contentions, the points that arise for determination in this appeal are as follows:

1. Whether the Tribunal justified in granting compensation of Rs.8,32,600/- with interest at the rate of 9% per annum from the date of petition till the date of deposit in favour of the claimants?
2. Whether the impugned order and decree passed by the Tribunal is liable to be set aside.

Points 1 and 2:-

6. It is not in dispute that the deceased-J.Venkata Ramana suffered injuries in the subject accident occurred on 06.08.2003 and succumbed to the same, due to rash and negligent driving of the driver of the auto bearing registration No.AP-11-V-7307. As per the evidence on record, the deceased was 32 years old as on the date of accident and was working as an Attender in MCH Head Office and drawing a salary of Rs.5,997/- per month, as is evident from Ex.A.9-Salary Pay Slip of the deceased issued by MCH. The Tribunal took the said gross salary of the deceased, deducted 1/3rd of it towards personal expenses of the deceased, applied multiplier '17' and granted Rs.8,15,600/- towards loss of dependency. The Tribunal further granted an amount of Rs.2,000/- towards funeral expenses and Rs.15,000/- towards loss of consortium. In all, the

Tribunal granted a compensation of Rs.8,32,600/- with interest @ 9% per annum from the date of petition till the date of deposit. As per the decision of the Apex Court in the case between Sarla Verma v. Delhi Transport Corporation¹, the suitable multiplier applicable to the age of the deceased is '16'. Admittedly, the Tribunal did not take into consideration the future hike in the salary of the deceased, though the deceased was a permanent employee of MCH. Further, the Tribunal granted lesser amounts under conventional heads. Under these circumstances, there is justification in granting a compensation of Rs.8,32,600/- with interest @ 9% per annum from the date of petition till the date of deposit in favour of the claimants. There are no circumstances either to interfere with the order under challenge or to enhance the compensation. Both the appeal filed by the Insurance Company to set aside the impugned order and the Cross Objection filed by the claimants seeking enhancement the compensation are liable to be dismissed.

7. Accordingly, M.A.C.M.A.No.3599 of 2005 filed by the Insurance Company and Cross Objection (SR) No.3781 of 2006 filed by the claimants are dismissed, confirming the impugned Order, dated 15.07.2005, passed in O.P.No.2315 of 2003 by the Motor Accident Claims Tribunal-cum-II Additional Chief Judge, City Civil Court, Hyderabad. The 2nd claimant-J.Shiva Kumar filed MACMAMP No.5224 of 2017 seeking permission to withdraw his share of compensation granted by the Tribunal. The subject accident occurred on 06.08.2003. More than 15 years have

¹ AIR 2009 SC 3104

elapsed from the date of subject accident. Under these circumstances, MACMAMP No.5224 of 2017 is allowed and the 2nd claimant-J.Shiva Kumar is permitted to withdraw his share of compensation granted by the Tribunal, on being deposited by the Insurance Company.

Pending miscellaneous Petitions, if any, shall stand closed.
There shall be no order as to costs.

Dr. SHAMEEM AKTHER, J

05th September, 2018
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