

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3334 of 2005

JUDGMENT:

Aggrieved by the grant of compensation of Rs.3,26,000/- as against a claim of Rs.4,00,000/- by the Chairman, Motor Accident Claims Tribunal-cum-Principal District Judge, Medak at Sangareddy ('the Tribunal' for brevity), vide order, dated 22.06.2005, passed in O.P.No.243 of 2003, the claimants preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity) seeking enhancement of compensation.

2. Heard both sides. Perused the record.

3. The learned counsel for the appellants-claimants would submit that Tribunal had taken the monthly income of the deceased as Rs.2,250/-, deducted 1/3rd of it towards personal expenses of the deceased, adopted multiplier '17', and granted an amount of Rs.2,96,000/- towards loss of dependency. The deceased was a butcher by profession and was running two mutton shops. As per the evidence of P.W.1 and P.W.4, the deceased was earning Rs.8,000/- to Rs.9,000/- per month. Further, the Tribunal granted meagre amounts on other conventional heads and ultimately prayed enhance the compensation as claimed. In support of his contentions, the learned counsel relied on a judgment of the Apex Court in National Insurance Co. Ltd., Vs. Pranay Sethi and others¹.

4. On the other hand, the learned Standing Counsel for the 2nd respondent-Insurance Company would contend that the Tribunal

¹ 2017 (6) ALD 170 (SC)

justified in granting a total compensation of Rs.3,26,000/- taking into account the age and the monthly income of the deceased. There are no circumstances to enhance the compensation and ultimately prayed to dismiss the appeal by confirming the Order under challenge.

5. It is not in dispute that the deceased-Md.Moulana @ Chinna Katike Moulana died in the subject accident occurred on 20.02.2003, due to rash and negligent driving of the driver of the lorry bearing registration No.HR-55-2460. The only point that arises for consideration in this appeal is whether the appellants-claimants are entitled for enhancement of compensation as claimed.

6. As per Ex.A.3-SSC Certificate of the deceased, the deceased was aged 27 years as on the date of subject accident. As per the evidence on record, he was a butcher by profession and was running two mutton shops and said to be earning Rs.8,000/- to Rs.9,000/- per month. There is evidence of P.W.2 to show the earnings of the deceased. There is discrepancy in the evidence of P.W.2-brother of the deceased and P.W.4-Sarpanch of the village with regard to the deceased running two mutton shops. The Tribunal, after analysing the entire evidence on record, took the monthly income of the deceased as Rs.1,500/-. In view of the occupation of the deceased, there will be ups and downs in the income of the deceased. In view of the judgment of the Apex Court in Pranay Sethi (1 supra), some amount is required to be added to the monthly income of the deceased, as the accidental death occurred in the year 2003. Considering the totality of the circumstances, this Court deems it appropriate to take the monthly income of the deceased as Rs.2,000/-, including future hike in the income. Since there are six

dependants on the deceased, $1/4^{\text{th}}$ of the income has to be deducted towards personal expenses of the deceased. The suitable multiplier applicable to the age of the deceased (27 years), as per the decision of the Apex Court in the case between Sarla Verma v. Delhi Transport Corporation², is '17'. So, the total loss of dependency would come to Rs.3,06,000/- (Rs.2,000/- x $1/4$ x 12 x 17).

7. In Pranay Sethi's case (1 supra), the Apex Court 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 of the deceased) towards loss of consortium, Rs.15,000/- to the appellants-claimants towards loss of estate and another Rs.15,000/- towards burial expenses. Thus, the appellants-claimants are entitled for a total compensation of Rs.3,76,000/- (Rupees Three lakhs Seventy Six thousand only) (Rs.3,06,000/- + Rs.40,000/- + Rs.15,000/- + Rs.15,000/-). The Tribunal awarded interest at the rate of 7.5% per annum on the amount granted as compensation from the date of petition till realisation, which is just and reasonable.

8. Accordingly, this appeal is allowed in part, modifying the order, dated 22.06.2005, passed in O.P.No.243 of 2003, by the Tribunal, enhancing the compensation from Rs.3,26,000/- to Rs.3,76,000/- with interest at the rate of 7.5% per annum on the enhanced amount

² AIR 2009 SC 3104

of compensation from the date of petition till realisation. The 1st appellant/1st claimant (wife of the deceased) is entitled to receive the entire enhanced compensation with interest accrued thereon and she is permitted to withdraw the same, on deposit. Other terms of the Order under challenge remain unaltered. No costs.

Pending miscellaneous petitions, if any, shall stand closed.

05th September, 2018
Bvv

Dr. SHAMEEM AKTHER, J

