

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2674 OF 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellants/claimants aggrieved by the grant of compensation of Rs.3,96,000/- with interest at 9% per annum from the date of petition till the date of realisation with proportionate costs, as against a claim of Rs.6,00,000/- by the learned Chairman, Motor Accident Claims Tribunal – cum – II Additional District Judge, Warangal (for short, “the Tribunal”) *vide* order, dated 19.10.2004, passed in O.P.No.1282 of 2001.

2. Heard the submissions of the learned counsel appearing for the appellants/claimants. Though the matter is listed today under the caption “For Orders”, there is no representation for respondent No.2/the Oriental Insurance Company Limited. The matter pertains to the year 2005. So, it is disposed of basing on the material available on record.

3. Learned counsel for the appellants/claimants would contend that the Tribunal had not taken the correct multiplier and granted meagre compensation towards conventional heads and ultimately, prayed to allow the appeal as prayed for.

4. In view of the submissions made by the learned counsel for the appellants, the short point that falls for determination is:

“Whether the appellants/claimants are entitled for enhancement of compensation as prayed for?”

5. **POINT:-** As per the evidence placed on record, the deceased B.Mallesham was working as an Attender in Shilpa Civil Engineers and Contractors, Hyderabad and he was drawing a sum of Rs.4,000/- per month. He was aged 30 years on the date of accident and he was hale and healthy and succumbed to injuries suffered in a motor accident caused due to the rash and negligent driving of the driver of DCM Van bearing No.AP 36U-4898 on 14.10.2001. The Tribunal, while considering the evidence on record, as there was no certificate of income to hold that the deceased was earning Rs.4,000/- per month, took his monthly income as Rs.3,000/- and his age as 35 basing on the certified copies marked as Exs.A-32 and A-33 i.e., Inquest Panchanama and Post Mortem Report, deducted 1/3rd thereof towards his personal expenses and granted a sum of Rs.3,84,000/- towards loss of dependency. The Tribunal further awarded a sum of Rs.2,000/- towards funeral expenses, Rs.5,000/- towards loss of estate and Rs.5,000/- towards loss of consortium in favour of the wife of the deceased (claimant No.1) and in all, granted a compensation of Rs.3,96,000/-.

6. As per the decision rendered in **Sarla Verma v. Delhi Transport Corporation**¹'s case, for the age of 35, the suitable multiplier is "16". Further, when there are four dependants, 1/4th amount from loss of income is liable to be deducted towards the personal expenses of the deceased. The monthly income of the deceased is taken as Rs.3,000/-. The annual income comes to Rs.36,000/-. 1/4th thereof is deducted towards his personal expenses. Then, it comes to Rs.27,000/- and by applying the

¹ AIR 2009 SC 3104

multiplier “16”, it comes to Rs.27,000/- x 16 = Rs.4,32,000/-. So the loss of dependency caused to the claimants comes to Rs.4,32,000/-.

7. It is apt to refer to the recent decision of the Apex Court in **National Insurance Co. Ltd., Vs. Pranay Sethi and others²**, wherein, it was 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) towards loss of consortium, Rs.15,000/- to the appellants/claimants towards loss of estate and another Rs.15,000/- towards funeral expenses and in all, the claimants are entitled for a compensation of Rs.5,02,000/-.

8. Thus, the appellants/claimants are entitled for a total compensation of Rs.5,02,000/- with interest at the rate of 7.5% per annum from the date of application till the date of realisation only on the enhanced amount of compensation.

9. Accordingly, this appeal is allowed in part modifying the order, dated 19.10.2004, passed in O.P.No.1282 of 2001 by the Tribunal, enhancing the compensation from Rs.3,96,000/- to Rs.5,02,000/- with interest at the rate of 7.5% per annum only on the enhanced amount of compensation from the date of petition till the date of realisation. There is no change in the other conditions

² 2017 (6) ALD 170 (SC)

or directions imposed by the Tribunal. On deposit of the compensation, the appellants/claimants are permitted to withdraw the entire amount along with the accrued interest thereon equally. There shall be no order as to costs.

10. Miscellaneous petitions pending, if any, in this appeal shall stand closed.

DR.JUSTICE SHAMEEM AKTHER

Date : 18.07.2018
AMD



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