THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2536 OF 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellant-claimant aggrieved by the order, dated 29.03.2004, passed in O.P.No.249 of 2002 by the Chairman, Motor Accident Claims Tribunal – cum – Chief Judge, City Civil Court, Hyderabad ('the Tribunal', for brevity), awarding compensation of Rs.1,55,000/-, as against the claim of Rs.3,00,000/-.

2. Heard both sides. Perused the record.

3. Learned counsel for the appellant – claimant would contend that the deceased T. Harish was 27 years old on the date of accident. He was a private employee and earning Rs.3,000/- per month. The Tribunal granted a compensation of Rs.1,55,000/-, which is meagre. The Tribunal has not applied proper multiplier and has not taken the income of the deceased correctly and ultimately, prayed to enhance the compensation.

4. On the other hand, learned counsel for the respondents would vehemently contend that the Tribunal had rightly taken the income and multiplier, while calculating the compensation. There is no infirmity in the order under challenge. The Tribunal had granted excess interest at the rate of 12% per annum and ultimately, prayed to dismiss the appeal.

5. In view of the submissions, the point for determination is whether the appellant is entitled to enhancement of compensation, as prayed for.

6. There is no dispute with regard to the death of T. Harish in a motor accident caused due to rash and negligent driving by the driver of car bearing No.AP-28-AB-7272 on 27.09.2001. Mother of the deceased is the claimant herein. She was 48 years old on the date of accident. As per the evidence, the deceased was a private employee and earning Rs.3,000/- per month. The Tribunal stated that there was no proof of earnings. Therefore, it took Rs.18,000/- as annual income of the deceased, and after deducting 1/3rd therefrom towards personal expenses of the deceased, took Rs.12,000/- per annum as contribution of the deceased to the family, and applying multiplier '12', relying on the age of the mother of the deceased, awarded Rs.1,44,000/- towards pecuniary loss. Further, the Tribunal also awarded Rs.11,000/- towards funeral expenses, love and affection, transportation charges etc. In all, the Tribunal granted a compensation of Rs.1,55,000/-.

7. Grant of compensation at Rs.1,55,000/- to a man of 27 years is quite less. The deceased died in a motor accident, which occurred on 27.09.2001. He was a bachelor. The Tribunal has applied multiplier '12' basing on the age of the mother of the deceased. But, in **Munnalal Jain and others v. Vipin Kumar Sharma and others**[1],

[1] 2015 (6) SCC 347

wherein the deceased was a bachelor, the Honourable Apex Court has taken the relevant multiplier for the age of the deceased, but not the multiplier of the dependant. It was also held that the age of the dependants has no nexus with the computation of compensation.

8. In view of the above decision of the Honourable Apex Court, it is apt to take the age of the deceased i.e., 27 years for selection of multiplier. The suitable multiplier for the age of the deceased, as per the decision in **Sarla Verma and others v. Delhi Transport Corporation and another**[2], is '17'. The monthly income of the deceased is taken as Rs.2,500/-, which works out to Rs.30,000/- per annum. Since the deceased was a bachelor, half of the amount is liable to be deducted towards his personal expenses and the remaining half is to be taken as contribution to his mother, who is the appellant herein. When half of the said amount is deducted, the contribution of the deceased to his family works out to Rs.15,000/- per annum (Rs.30,000/- / 2). When the same is multiplied with multiplier '17', the loss of dependency works out to Rs.2,55,000/- (Rs.15,000 X 17). The appellant is entitled to the said amount towards loss of dependency. The appellant is also entitled to a sum of Rs.15,000/- towards loss of estate and love and affection, Rs.15,000/- towards funeral expenses and Rs.10,000/- towards damages to clothes, transportation etc., as against Rs.11,000/- granted by the Tribunal

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[2] (2009) 6 SCC 121

towards funeral expenses, love and affection, transportation charges etc. In all, the appellant is entitled to a compensation of Rs.2,95,000/-.

9. In the result, the appeal is allowed in part enhancing the compensation from Rs.1,55,000/- to Rs.2,95,000/- (Rs.2,55,000/- + Rs.15,000/- + Rs.15,000/- + Rs.10,000/-). The enhanced amount carries interest at the rate of 7.5% per annum from the date of petition till the date of realization. There is no change in the other conditions imposed by the Tribunal. On deposit of the compensation amount, the appellant is permitted to withdraw the entire amount.

Miscellaneous Petitions, if any, pending in this appeal shall stand closed. There shall be no order as to costs.

Dr. SHAMEEM AKTHER, J

July 10, 2018.
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