THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.351 of 2005

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act'), by the appellants-claimants aggrieved by the order dated 30.09.2004 in M.V.O.P.No.249 of 2003 on the file of the Motor Accident Claims Tribunal-cum-III Additional District Judge, Kurnool at Nandyal (for short 'the Tribunal'), which was disposed of by way of common order along with M.V.O.P.No.248 of 2003.

2. Heard the learned counsel for appellants-claimants, the learned counsel for respondent No.2-National Insurance Company Limited and perused the record.

3. Learned counsel for the appellants-claimants would contend that the Tribunal had granted compensation of Rs.2,36,000/-, which is meagre. The Tribunal had not taken the future hike in the salary of the deceased in awarding compensation. Further, the Tribunal had granted lesser compensation towards conventional heads and ultimately prayed to enhance the same.

4. Learned counsel for respondent No.2-National Insurance Company Limited would contend that the Tribunal had taken all the facts and circumstances into consideration and rightly granted the said compensation. Hence, there are no circumstances to enhance the same and ultimately prayed to dismiss the appeal.

5. There is no dispute with regard to the death of the deceased-G.Krishnaiah due to the collision between the lorry bearing No.HR-45/5525 and Maruthi van bearing No.AP-21/D-5837. The Tribunal had elaborately dealt with the oral evidence and relied on Ex.A1-FIR, Ex.A2-Inquest report, Ex.A3-postmortem report, Ex.A4-MVI report and Ex.A.5-charge sheet and held that both the drivers of the vehicles were equally responsible for the occurrence of accident on the intervening night of 11/12.12.2001. There is no dispute with regard to the valid insurance of the offending vehicles, i.e., lorry bearing No.HR-45/5525 and Maruthi van bearing No.AP-21/D-5837. The Tribunal also elaborately dealt with this aspect and apportioned the said compensation between both the owners and insurers equally. So, there is no infirmity in the said finding.

6. Now the point for determination is, whether the appellants-claimants are entitled for enhancement of compensation.

7. As per Ex.A2-inquest report, Ex.A3-post mortem examination report and other criminal case records, the deceased was 34 years old. The Tribunal had taken the correct age of the deceased. As per the decision rendered in *Smt.Sarla Verma and others Vs. Delhi Transport Corporation and another*[1], the appropriate multiplier for the age of 34 is '16'.

8. The evidence of P.W.1 is that the deceased was working as Executive Officer of a Group of Temples at Allagadda and drawing a monthly salary of Rs.4,195/-. P.W.4, who was

---

[1] 2009 (6) SCC 121

the Incharge Executive Officer of the said Group of Temples, clearly and categorically deposed that the deceased was drawing monthly salary of Rs.4,195/-. To substantiate the same, the relevant pages of acquittance register were marked as Exs.X3 to X6, which show that the deceased was drawing a monthly salary of Rs.4,195/-. The Tribunal took the said amount and assessed the compensation by applying multiplier '17'. The Tribunal ought to have taken hike in the salary of the deceased as he was a permanent employee. When there is a hike in the salary, some tax is liable to be deducted.

9. Taking these facts and circumstances into consideration, the monthly salary of the deceased including hike can be taken as Rs.5,500/- and annual income comes to Rs.66,000/-. There are four dependents on the deceased. So 1/4th has to be deducted towards his personal expenses. After deducting 1/4th towards personal expenses, the net contribution to his family comes to Rs.49,500/-. After applying multiplier '16', the loss of dependency comes to Rs.7,92,000/-. Further, as per the decision of the Apex Court in *National Insurance Co. Ltd., Vs. Pranay Sethi and others*[2], claimant No.2/wife is entitled to Rs.40,000/- towards loss of consortium, Rs.15,000/- towards funeral expenses and Rs.15,000/- towards loss of estate. In total, the claimants are entitled for a compensation of Rs.8,62,000/- (Rs.7,92,000/- + Rs.70,000/-) with interest @ 7.5% per annum on the enhanced compensation from the date of petition till the date of deposit.

---

[2] 2017 (6) ALD 170 (SC)

10. In the result, the appeal is partly allowed modifying the order, dated 30.09.2004, passed by the Tribunal in M.V.O.P.No.249 of 2003 enhancing the compensation from Rs.2,36,000/- to Rs.8,62,000/- with interest @ 7.5% per annum on the enhanced compensation from the date of petition till the date of deposit. Out of enhanced compensation, 2nd claimant/wife is entitled to 50% of the same. Insofar as the remaining 50% of the enhanced amount is concerned, all the other claimants are entitled to share it equally. The other directions in the impugned order remain unaltered. The appellants-claimants are permitted to withdraw the entire amount with interest as per the aforesaid apportionment of their shares.

The Miscellaneous Petitions, if any, pending shall stand closed.

____
Dr. SHAMEEM AKTHER, J

Date: 02.08.2018
ssp