THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.726 OF 2010

JUDGMENT:

This appeal is filed by the appellant-insurance company aggrieved by the Order and Decree dated 09-12-2009 passed in M.A.T.O.P.No.618 of 2008 by the Chairman, Motor Accident Claims Tribunal, Judge, Family Court-cum-Additional District Judge at Khammam (for short, the Tribunal).

2. The brief facts of the case are that respondent No.1 is the father and respondent No.2 is the mother of the deceased-Vuyyala Rajesh. The deceased was working as Cleaner on lorry bearing No.AP20W 2759. While so, on 04.12.2007 at about 7.00 pm., while the deceased was proceeding on the said lorry as Cleaner along with load of sugarcane, and when the said lorry reached S.C. Colony Cross Roads, the driver of the lorry drove it in a rash and negligent manner with high speed, due to which, the sugarcane load contacted with 11 KV electrical line. At that time, the deceased tried to get down from the lorry by removing the electrical line, due to which, he got electrocuted and died on the spot. Respondent Nos.1 and 2 herein filed the aforesaid MATOP claiming compensation of Rs.3,00,000/- against the owner (respondent No.3 herein) and the insurer of the said lorry (appellant herein).

3. Before the Tribunal, respondent No.3 herein remained *ex parte.* The appellant filed its counter denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

4. After considering the oral and documentary evidence on record, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the lorry and awarded total compensation of Rs.2,89,000/- i.e., Rs.2,64,000/- towards loss of dependency and Rs.25,000/- towards loss of estate and love and affection.

5. Smt.Jonna Ramani, learned standing counsel for the appellant, submits that though no proof of income is filed, the Tribunal has taken the monthly income of the deceased as Rs.3,000/-, which is excessive. She further submits that as the deceased was bachelor, the Tribunal ought to have deducted 50% from the income of the deceased towards personal expenses instead of 1/3, as per the judgment of the Hon'ble Supreme Court in **Smt.Sarla Varma v Delhi Transport Corporation[1],** and sought to reduce the compensation amount.

6. A perusal of the order of the Tribunal, it is clear that the Tribunal had fixed the monthly income of the deceased at Rs.3,000/- per month, which is just and reasonable. From out of the said income, the Tribunal deducted 1/3rd towards personal expenses and granted the compensation. As per **Sarla Varma**'s case (supra), 50% of the income should be deducted towards personal expenses, as the deceased was a bachelor. Therefore, the income of the deceased comes to Rs.1,500/- per month. Hence, the compensation under the head loss of dependency comes to Rs.1,98,000/- (Rs.1,500/- x 12 x 11). Except the said above modification, the order of the Tribunal is confirmed.

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[1] 2009(6) SCC 121

7. Accordingly, the appeal is partly allowed, modifying the order of the Tribunal, by reducing the compensation from Rs.2,89,000/- to Rs.2,23,000/-. Miscellaneous petitions pending, if any, shall stand dismissed. No order as to costs.

T.AMARNATH GOUD, J

Date: 03.07.2019
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