THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.91 OF 2014

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the order and Decree dated 20-08-2013 passed in M.V.O.P.No.626 of 2009 by the Chairman, Motor Vehicles Accidents Claims Tribunal-cum-Judge, Family Court (Addl.Chief Judge, City Civil Court), Secunderabad (for short, the Tribunal).

2. The brief facts of the case are that on 20-10-2009 at about 8.45 P.M., while the deceased Vajjal Naresh crossing the road at Hakeempet Bus Depot, the car bearing No.AP10R 2323 came in a high speed and dashed him. In that accident, the deceased sustained severe injuries and was shifted to Gandhi Hospital, Secunderabad for treatment and that on 23-10-2009, he succumbed to the injuries while undergoing treatment. The claimants filed the above M.V.O.P., claiming compensation of Rs.5,00,000/- for the death of the deceased.

3. The respondents filed their separate counters denying the allegations made in the claim petition *inter alia* contending that the amount of compensation claimed by the claimants is excessive, exorbitant, imaginary and out of proportion and sought to dismiss the petition.

4. During the course of trial, the claimants examined P.W.1 and marked Exs.A1 to A6. On behalf of the respondents, no oral evidence was adduced, but Ex.B1 insurance policy was marked.

5. After considering the material on record and the evidence adduced by the claimants, the Tribunal allowed the O.P. in part and awarded an amount of Rs.1,74,500/- with interest at 7.5% p.a. from the date of petition till the date of realization payable by the respondents 1 and 2 jointly and severally. Being aggrieved by the quantum of compensation awarded by the Tribunal, the claimants preferred the present appeal.

6. Heard the learned counsel appearing for the appellants and the learned standing counsel appearing for the second respondent.

7. Though the claimants made a claim of Rs.5,00,000/-, on account of death of the deceased, the Tribunal was pleased to grant a sum of Rs.1,74,500/- fixing the notional income of the deceased at Rs.10,000/- per annum, holding that the deceased was a labourer and no evidence was adduced to prove the income of the deceased at Rs.5,000/- per month.

8. In the light of the judgment of the Apex Court in **New India Assurance Company Limited V. Kalpana (Smt)[1],** fixing the income of the deceased at Rs.3,000/- per month in the absence of any proof of evidence toward the income, the same principle is applied in this case also. Accordingly, the income of the deceased is fixed at Rs.36,000/- per annum. Since the deceased died unmarried, 50% of his income should be deducted towards personal expenses and the annual income would comes to Rs.18,000/- per year and the appropriate multiplier is 17 since the deceased died at the age of 22 years. Hence, the compensation under the head loss of income comes to Rs.3,06,000/- (Rs.18,000/- x 17), instead of Rs.1,70,000/- granted by the Tribunal under the above head. Except the above modification, the award passed by the Tribunal remains unchanged.

9. Accordingly the appeal is partly allowed to the extent indicated above. Miscellaneous petitions pending if any shall stand closed. No order as to costs.

T.AMARNATH GOUD, J

Date: 21-01-2019.
Shr

[1] (2007) 3 SCC 538.