

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.2516 OF 2013

JUDGMENT:

This appeal is preferred by the appellants/respondents 2 & 3/insurance company questioning the order of the Chairman, Motor Accidents Claims Tribunal-cum-IV Additional District Judge (FTC), Warangal (for short, the Tribunal) in M.V.O.P.No.94 of 2011 dated 29.10.2012.

2. For the sake of convenience, the parties are hereinafter referred to as they were arrayed in the O.P. before the Tribunal.

3. The brief facts of the case are that the petitioners' mother-Komure Narsavva met with an accident on 04.05.2015 at about 6.10 a.m. while traveling in a TATA SUMO vehicle when a lorry bearing No.AP 16T 6075 gave dash to that TATA SUMO vehicle near Soan Forest Check Post of Adilabad District and in that accident, not only their mother, but also their other family members and others had instant deaths. On the date of her death, their mother was aged about 50 years and due to her untimely and unfortunate death, the petitioners lost love and affection and also they were put into lot of mental shock and agony. Hence, the petitioners/claimants filed the present claim petition claiming a compensation of Rs.5,00,000/-.

4. In the claim petition, respondents 1 & 2 remained *ex parte*. The 3rd respondent filed a counter denying the allegations and contended that the amount claimed by the claimants is highly

excessive and that it is not liable to pay any compensation and therefore prayed to dismiss the claim petition.

5. 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 offending lorry and awarded total compensation of Rs.4,26,000/- with interest @ 7.5% per annum i.e., Rs.4,16,000/- towards loss of income, Rs.5,000/- towards loss of estate and Rs.5,000/- towards funeral expenses. Aggrieved by the said order, the appellants/respondents 2 & 3/insurance company filed the present appeal.

6. Heard.

7. The only point which came to consideration during the course of hearing is that as per Ex.A-2-Inquest report, the age of the deceased is shown as 50 years and in the claim petition, the age of the 1st claimant, who is the son, is shown as 36 years. Therefore, it is needless to say that at the age of 14 years, biologically a female cannot beget a child. In view of the above, this Court feels that it would be reasonable if the multiplier for the age of the deceased i.e., between 51 to 55 years is made applicable. Accordingly, as per the decision reported in **Sarla Verma and others v. Delhi Transport Corporation and Another**¹, multiplier of '11' shall be applied.

¹ (2009) 6 SCC 121

8. Now coming to the quantum of compensation, since the Tribunal has fixed the monthly income of the deceased @ Rs.4,000/-, this Court is also inclined to fix the monthly notional income of the deceased @ Rs.4,000/-. After deduction of $1/3^{\text{rd}}$ towards personal expenses of the deceased since there are two family members depending upon the deceased, the monthly income of the deceased would come to Rs.2,667/- (Rs.4,000/- - Rs.1,333/- ($1/3^{\text{rd}}$)). Therefore, the annual income of the deceased comes to Rs.30,004/- (Rs.2,667/- X 12 months). The multiplier for the age of the deceased is '11' as per the decision reported in **Sarla Verma's case** (1 supra). Hence, the compensation under the head of 'loss of income' comes to Rs.3,52,044/- (Rs.32,004/- X 11). With regard to the amounts awarded by the Tribunal under the heads of loss of estate and funeral expenses, the same remain un-changed. Therefore, the total compensation comes to Rs.3,62,044/- (Rs.3,52,044/- + Rs.5,000/- + Rs.5,000/-).

9. Accordingly, the Motor Accident Civil Miscellaneous Appeal is partly allowed granting compensation of Rs.3,62,044/- as against Rs.4,26,000/-, awarded by the Tribunal and the same is accordingly granted.

10. Accordingly, the instant appeal is allowed in part modifying the order passed by the Tribunal, by reducing the compensation, as indicated above, and confirming the same in all other respects. There shall be no order as to costs.

As a sequel thereto, miscellaneous applications, if any pending in the instant appeal, stand disposed of.

T.AMARNATH GOUD, J

Date: 26th August, 2019

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