

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.93 OF 2014

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the award and decree dated 25-10-2013 passed in M.V.O.P.No.193 of 2009 by the Chairman, Motor Vehicles Accidents Claims Tribunal-cum-III Additional District Judge, Warangal (for short, the Tribunal).

2. The brief facts of the case are that on the midnight of 17-6-2008, while the deceased was proceeding on the motor cycle bearing No.AP36T/R 5776, the lorry bearing No.AP25U 6635 coming in opposite direction, dashed him. In that accident, the deceased suffered grievous injuries all over his body and died on the spot. The claimants filed the above M.V.O.P., claiming compensation of Rs.10,00,000/- on account of 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.Ws.1 and 2 and got marked Exs.A1 to A13. On behalf of the respondents, RW.1 was examined and Exs.B1 to B5 were marked.

5. After considering the material on record and the evidence adduced by both sides, the Tribunal allowed the O.P. in part and awarded an amount of Rs.4,65,000/- with interest at 7% 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.

7. The Tribunal after taking into consideration of the education of the deceased as engineering student arrived the income of the deceased at Rs.5,000/- per month and after deducting 50% of the said amount, an amount of Rs.2,500/- per month was the contribution to the family and accordingly Rs.4,65,000/- has been awarded as against the claim of Rs.10,00,000/-.

8. As per judgment reported in ***B.RAMULAMMA v. M/s.VENKATESH BUS UNION, REP.BY A.M.VELU MUDALIYAR, BANGALORE***¹ the notional income of the deceased is fixed at Rs.10,000/- per month as he is an engineering student. The Tribunal has taken the multiplier '16' by taking into consideration the age of the mother of the deceased, but this Court is inclined to apply the multiplier '18'

¹ 2009(6) ALT 784 (D.B.)

as per the decision of the Apex Court in **Smt.Sarla Varma v Delhi Transport Corporation**². Applying the said multiplier to the income of the deceased at Rs.10,000/- per month and after deducting 50% of the income for his personal expenses as the deceased died unmarried, the loss of dependency comes to Rs.10,80,000/- (5,000x12x18) as against the compensation awarded by the Tribunal at Rs.4,50,000/-. Except the above modification, the award passed by the Tribunal remains unchanged. The appellants are directed to pay the Court fee over and above the compensation claimed by them.

9. Accordingly the appeal is 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

² 2009(6) SCC 121