

THE HON'BLE SRI JUSTICE K. LAKSHMAN

M.A.C.M.A. No.2534 OF 2006

JUDGMENT:

Aggrieved the Award and decree dated 20.07.2006 in M.V.O.P. No.988 of 2005 passed by the Motor Accidents Claims Tribunal – cum – VI Additional District Judge (III-F.T.C.), Warangal, (for short 'the Tribunal'), appellant – Insurance Company filed the present appeal.

2. Vide the aforesaid order, the Tribunal has awarded an amount of Rs.4,40,000/- (Rupees Four lakhs and forty thousand only) to the claimants towards compensation with proportionate costs and interest at 7.5% per annum thereon from the date of petition till the date of realization against appellant – Insurance Company and the 5th respondent - Driver cum Owner of the crime vehicle jointly and severally as against the claim of Rs.3,00,000/- (Rupees three lakhs only) made by the claimants for untimely death of the deceased, wife of the 1st claimant and the mother of claimants 2 to 4, in a road accident occurred on 13.11.2004.

3. According to the claimants, on 13.11.2004, the 1st claimant - husband of the deceased, and the deceased Banthi Rathamma came down to Mahabubabad and after purchasing clothes, in order to return back to their village Rajole, they boarded the Auto Trolley Tempo Minidoor bearing No.AP 36 V 9362 at Mahabubabad. When the said vehicle reached near Salar thanda, another Auto Trolley bearing

No.AP 36 V 4883 which was coming from Kuravi side, driven by its driver in a rash and negligent manner with high speed dashed the auto trolley in which the deceased and 1st respondent and others traveling, as a result of which the deceased sustained serious injuries and while shifting to the hospital, she died on the way. Therefore, the claimants filed the claim petition for Rs.3,00,000/- towards compensation, claiming that the deceased was aged 32 years at the time of accident and she used to earn a sum of Rs.3,000/- per month by doing agricultural work and by selling toddy. According to the claimants, deceased was hale and healthy, and on account of the untimely death of the deceased, the claimants suffered financially and mentally and the future of the claimants 2 to 4 – children of the deceased, has become dark.

4. The respondents – owner of the vehicle and the Insurance Company filed separate counters before the Tribunal denying the manner of accident and the age, avocation, income and health condition of the deceased.

5. On considering the entire evidence on record, both oral and documentary, the Tribunal has awarded an amount of Rs.4,40,000/- towards compensation to the claimants vide Award dated 20.07.2006. Aggrieved by the said Award, the appellant – Insurance Company preferred this appeal denying both the liability as well as the quantum compensation.

6. The appeal against the respondents 1 and 2 – claimants 1 and 2 was dismissed for default, vide order, dated 05.07.2016.

7. Heard the learned counsel for the appellant – Insurance Company and perused the entire record.

8. It is evident from the record, that on consideration of the entire evidence on record, both oral and documentary, the Tribunal gave a specific finding that the accident was occurred due to rash and negligent driving of the driver of the Auto Trolley bearing No. AP 36 V 4883. There is no contra evidence produced by the appellant – Insurance Company to disprove the same. On the other hand, the claimants filed Ex.A1 FIR, Ex.A2 charge sheet in proof of the same. On perusal of Exs.A1 and A2 and also the deposition of PW.1, this Court is of the view that the Tribunal is right in giving finding that the accident was occurred due to the rash and negligent driving of the driver of the Auto Trolley bearing No.AP 36V 4883.

9. With regard to the quantum of compensation, the claimants claimed that the age of the deceased at the time of accident was about 30 years. It is evident from Ex.A4 - Post Mortem Report that the age of the deceased was 30 years. Relying upon Ex.A4, the Tribunal came to the conclusion that the age of the deceased as 30 years. As per the decision of the Apex Court in **Sarla Verma v. Delhi Transport Corporation**¹, the multiplier should be '17' for the age

¹. (2009) 6 SCC 121

groups of 26 to 30 years. Therefore, the Tribunal has rightly applied the multiplier '17'. Coming to the earning capacity of the deceased, the Tribunal has taken into consideration an amount of Rs.3,000/- towards monthly earning capacity of the deceased by doing agricultural work and by selling paddy relying upon the principle held by the Apex Court in **Latha Wadhva v. State of Bihar**², wherein the Apex Court considered the monthly earning capacity of house wife as 3,000/-. There is no other evidence produced by the Insurance Company to disprove the said fact. Therefore, the finding given by the Tribunal with regard to the monthly earning capacity of the deceased at Rs.3,000/- is also correct.

10. By considering the entire evidence, both oral and documentary, filed by the claimants, the Tribunal has rightly awarded an amount of Rs.4,40,000/- towards compensation to the claimants under various heads along with interest @ 7.5% per annum against the appellant – Insurance Company and the 5th respondent – owner cum driver of the crime vehicle. Thus, this Court is satisfied with the said finding and does not find any error in it warranting interference by this Court. Hence, the present appeal is devoid of merits and accordingly the same is liable to be dismissed.

11. In the result, the appeal is dismissed confirming the award and decree dated 20.07.2006 in M.V.O.P. No.988 of 2005 passed by the Tribunal. However, there shall be no order as to costs.

² AIR 2001 SC 3218

As a sequel, Miscellaneous Applications, if any, pending in the appeal shall stand closed.

K. LAKSHMAN, J

January 30, 2020.
KTL

