HON'BLE SMT. JUSTICE G. ANUPAMA CHAKRAVARTHY

M.A.C.M.A.No.595 of 2015

JUDGMENT :

This appeal is filed by the claimants being aggrieved by the order and decree dated 29.01.2015 in M.V.O.P.No.572 of 2012 on the file of Motor Accident Claims Tribunal-cum-VII Additional District Judge, Warangal, for the death of the deceased, namely, Banala Srinivas, who died in the accident which occurred on 08.03.2012.

2. The appeal is filed only seeking enhancement of compensation. Initially, the claim was made for Rs.8,00,000/- and the Tribunal awarded an amount of Rs.4,20,000/-.

3. For the sake of convenience, the parties are referred to as arrayed in the O.P.

4. Heard both sides and perused the record.

5. The case of the claimants is that the deceased was working as a Security Guard in Malkanur Co-operative Bank and used to earn Rs.5,500/- per month. It is urged by the learned counsel for

the claimants that the Tribunal has erred in applying the multiplier based on the age of the mother of the deceased while computing the loss of dependency, as the deceased was a bachelor. The learned counsel for the claimants relied on the judgments reported in **N.Surender Rao & others v. B.Swamy & others**[1] and also in **Amrit Bhanu Shali & others v. National Insurance Co. Ltd. & others**[2], wherein, their Lordships have held that the age of the deceased has to be taken into consideration for adopting appropriate multiplier though the deceased is a bachelor.

6. It is further contended by the learned counsel for the claimants that while computing the compensation, the tribunal ought to have considered Ex.A-6/Salary Certificate issued by PW-2, wherein, the salary of the deceased was mentioned as Rs.7,500/- per month. It is further contended that the Tribunal ought to have granted higher compensation to the claimants under other conventional heads and prayed to modify the orders.

7. On the other hand, the learned counsel for the respondents contended that the tribunal have rightly granted compensation by

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[1] 2014 ACJ 2613
[2] (2012) 11 SCC 738

considering the oral and documentary evidence, and therefore, prayed to dismiss the appeal by confirming the orders of the tribunal.

8. There is no dispute so far as the liability is concerned and the amount granted by the Tribunal alone is disputed, therefore, the appreciation in this appeal would be only with respect to the quantum of compensation. The Tribunal has disbelieved the evidence of PW-2 and also Ex.A-6, as there is no appointment letter to the deceased and further there is no agreement between the bank and the security agency i.e. “M/s.Karthik Security Office”.

9. It is relevant to mention that the claim petition filed by the parents of the deceased itself disclose that the deceased used to earn Rs.5,500/- per month but the evidence before the Tribunal is of PW-2 who is the Chief Security Officer of “M/s.Karthik Security Office” and of Ex.A-6 being issued by them showing the salary of the deceased as Rs.7,500/- per month. It is evident that the pleadings are contrary to the evidence and the Tribunal has rightly disbelieved the oral evidence of PW-2 and the document

under Ex.A-6 i.e. salary certificate. Taking into consideration the initial claim made by the parents of the deceased as to the earnings of the deceased as Rs.5,500/- per month, the same can be taken as the income of the deceased.

10. The Tribunal has considered the age of the mother of the deceased as 46 years and applied the multiplier '13' while calculating the loss of dependency. As per the ratio laid down in the aforesaid judgments relied upon by the learned counsel for the claimants, the age of the deceased has to be taken into consideration while calculating the loss of dependency, instead of the age of his mother.

11. The Tribunal has granted compensation to the claimants under the following heads:

1.	Loss of dependency	- Rs.3,90,000/-
2.	Loss of Estate	-Rs.20,000/-
3.	Funeral expenses	-Rs.10,000/-
	TOTAL	**-Rs.4,20,000/-**

12. In the present appeal, the age of the deceased was 26 years as on the date of the accident and the income of the deceased is taken as Rs.5,500/- per month. As per the judgment of Hon'ble

Supreme Court in **Smt.Sarla Verma v. Delhi Transport Corporation & another**[3], the multiplier applicable is '17' for the age group of 26 to 30 years. The annual income of the deceased is Rs.66,000/-. If 40% future prospects are added, it would come to Rs.92,400/- (Rs.66,000 + Rs.26,400). The claimants in this case are the parents of the deceased and the deceased was unmarried. As per the judgment in **Sarla Verma'**s case (3 supra), 50% is to be deducted towards personal expenses of deceased. Thus, his contribution to the family would come to Rs.46,200/- (Rs.92,400 - Rs.46,200). If the multiplier '17' is applied, the loss of dependency would come to Rs.7,85,400/- (Rs.46,200 X 17).

13. Thus, the claimants are entitled to compensation under the following heads;

1.	Loss of dependency	-	Rs.7,85,400/-
2.	Loss of estate	-	Rs.15,000/-
3.	Consortium (@40,000/- each to 2 claimants)	-	Rs.80,000/-
4.	Funeral expenses	-	Rs.15,000/-
	TOTAL	**-**	**Rs.8,95,400/-**

14. Accordingly, the appeal is allowed, granting a total compensation of Rs.8,95,400/- with costs and interest at the rate of 7.5% per annum from the date of petition till the date of

[3] (2009) 6 SCC 121

realization, payable by respondents 1 to 3 jointly and severally, within two months from the date of receipt of this order. Both the claimants are equally entitled for the said amount and they are permitted to withdraw their respective shares of compensation along with interest and costs, as the accident took place in the year 2012.

Pending miscellaneous applications, if any, shall stand closed.

G.ANUPAMA CHAKRAVARTHY, J

Date: 29.07.2022

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