

**THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER
AND
THE HON'BLE SRI JUSTICE NAGESH BHEEMAPAKA**

M.A.C.M.A.No.4242 OF 2008

JUDGMENT: (Per Hon'ble Dr.SA,J)

Dissatisfied with the grant of compensation of Rs.9,97,000/-, as against the claim of Rs.50,00,000/-, by the learned Chairman, Motor Accidents Claims Tribunal (VIII Additional District Judge), Nizamabad (for short, 'the Tribunal'), *vide* order and decree, dated 26.11.2007, passed in O.P.No.2175 of 2002, the appellants/petitioners preferred the present appeal, under Section 173 of the Motor Vehicles Act, 1988, seeking enhancement of compensation.

2. Heard the learned Standing Counsel appearing for respondent No.2-Insurance Company and perused the record.
3. There is no representation for the appellants/petitioners.
4. Though notice is served on respondent No.1, there is no representation on her behalf.
5. Learned Standing Counsel appearing for the respondent No.2-Insurance Company would contend that basing on the evidence on

record and taking all the relevant factors into consideration, the Tribunal had granted compensation of Rs.9,97,000/- to the appellants/petitioners, which is just and reasonable. There are no circumstances to vary the impugned order and decree and ultimately, prayed to dismiss the appeal by confirming the impugned order and decree.

6. Challenging the impugned order and decree, dated 26.11.2007, the respondent No.2-Insurance Company has not preferred any appeal. Hence, it is not in dispute that the deceased-Mandadi Jaypal Reddy died in the subject accident that occurred on 27.04.2002 at about 11:00 AM in the limits of Masaipet Village, due to rash and negligent driving by the driver of the offending lorry bearing registration No.AP-16-W-1265.

7. The only point that arises for determination in this appeal is 'whether the compensation of Rs.9,97,000/- granted by the Tribunal to the appellants/petitioners *vide* the impugned order and decree can be enhanced, as prayed for'?

POINT:

8. To substantiate their claim, the appellants/petitioners got examined PWs.1 to 3 and got marked Exs.A1 to A26. On behalf of the respondents, no evidence, either oral or documentary, was adduced.

9. The Tribunal, basing on the oral and documentary evidence on record, took the annual income of the deceased at Rs.1,05,000/-, and after deducting $1/3^{\text{rd}}$ therefrom towards the personal expenses of the deceased, arrived the contribution of the deceased to the family at Rs.70,000/- per annum and by applying multiplier '14', assessed the loss of dependency at Rs.9,80,000/-. The Tribunal also granted Rs.2,000/- towards funeral expenses, Rs.5,000 towards loss of consortium and Rs.10,000/- towards loss of love and affection and ultimately, awarded the compensation of Rs.9,97,000/- with interest at 7.5% per annum from the date of filing of the petition till the date of payment or deposit.

10. As seen from the material placed on record, the deceased was doing business. Therefore, 30% of his annual income i.e., Rs.1,05,000/- can be taken as his future hike, which comes to Rs.1,36,500/-. When $1/3^{\text{rd}}$ is deducted therefrom towards personal expenses of the deceased, the contribution of the deceased to the

family comes to Rs.91,000/- per annum. Since the deceased was 30 years old as on the date of his death in the subject accident, the suitable multiplier to the age the deceased, as per the decision rendered by the Honourable Supreme Court in **Sarla Verma v. Delhi Transport Corporation**¹, is '17'. When the contribution of the deceased to the family i.e., Rs.91,000/- per annum is multiplied with multiplier '17', the loss of dependency comes to Rs.15,47,000/- (Rs.91,000/- x 17). Further, in view of the decision rendered by the Honourable Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others**², the appellants/petitioners are also entitled to Rs.70,000/-, in toto, under the conventional heads, i.e., Rs.15,000/- towards loss of estate, Rs.40,000/- towards loss of consortium and Rs.15,000/- towards funeral expenses. Thus, in all, the appellants/petitioners are entitled for a compensation of Rs.16,17,000/-. Further, the Tribunal granted interest at the rate of 7.5% per annum on the compensation awarded by it from the date of petition till the date of payment or deposit. The enhanced amount shall also carry interest at the rate of 7.5% per annum from the date of petition till the date of deposit.

¹ AIR 2009 SC 3104

² (2017) 16 Supreme Court Cases 680

11. Accordingly, the appeal is allowed in part, modifying the order and decree, dated 26.11.2007, passed in O.P.No.2175 of 2002 by the learned Chairman, Motor Accidents Claims Tribunal (VIII Additional District Judge), Nizamabad, by enhancing the compensation from Rs.9,97,000/- to Rs.16,17,000/- (Rupees sixteen lakhs seventeen thousand only) with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The enhanced amount shall be apportioned among the appellants/petitioners in the same ratio as apportioned by the Tribunal.

Miscellaneous Petitions, if any, pending in this appeal, shall stand closed. There shall be no order as to costs.

Dr. SHAMEEM AKTHER, J

NAGESH BHEEMAPAKA, J

Date: 21.10.2022
MD