

THE HON'BLE SRI JUSTICE N. TUKARAMJI

M.A.C.M.A.No.1675 of 2014

JUDGMENT:

Heard Sri A.V.K.S. Prasad, learned counsel for the petitioners and Sri N. Vasudeva Reddy, learned standing counsel for the respondents/RTC.

2. Aggrieved and dissatisfied by the quantum of compensation awarded in the decree and order dated 26.06.2007 in O.P.No.2791 of 2007 on the file of V Additional Metropolitan Sessions Judge (Mahila Court)-Cum-XIX Additional Chief Judge, City Criminal Courts at Hyderabad, the petitioners/claimants preferred this appeal.

3. The appellants/petitioners (hereinafter the petitioners) are the parents of the deceased/minor boy who was aged 15 years died in the vehicular accident on 27.02.2005 filed the claim petition under Section 163-A of the Motor Vehicles Act seeking compensation of Rs.10,00,000/-.

4. The brief facts of the case are that on 27.02.2005 while the deceased was traveling along with the father on a scooter and at S.J.Bridge a bus bearing No. AP-10-A-7023 driven by its driver in rash and negligent manner dashed the scooter from behind, due to which the deceased/minor boy was slumped down under the bus, ran over him causing instantaneous death. There upon the petitioners filed the claim petition seeking a compensation of Rs.2,50,000/-.

5. The learned Tribunal, considering the material on record, awarded Rs.1,22,000/- as compensation with 7.5% interest per annum and held that both the respondents Nos.1 and 2 are jointly and severally liable to pay the compensation.

6. In the appeal, the petitioners contended that the tribunal erroneously had taken Rs.2,000/- per month as notional income and it would have taken Rs.3,000/- and the factor of multiplier should have been taken to the age of the deceased/minor boy in addition, the tribunal erred in awarding lesser amount and the meager amounts are granted on conventional heads.

7. Learned counsel for the petitioners further relied on the authority between **Kurvan Ansari Alias Kurvan Ali Vs Shyam Kishore Murmu**¹ and pleaded that the Hon'ble Apex Court while considering the claim for the death of 7 year old boy had taken notional income at Rs.25,000/- and in the authority of **Kishan Gopal & Another Vs Lala and Others** for 10 years old child notional income was taken at Rs.30,000/- and as the age of the child in the present claim petition is of 15 years, Rs.30,000/- annual income should be considered.

8. The learned counsel for the respondents pleaded that since the claim is under Section 163-A of M.V.Act, the tribunal properly analysed the petition averments and the material placed on record, thereby reasonably granted the compensation. As the appellants contest in the appeal is not tenable, prayed for confirming the award.

9. In these rival pleas, the point arises for determination is:

“Whether the claimants are entitled for any enhancement of compensation prayed for. If so, to what amount” ?

¹ 2022 (1) 317

10. There is no dispute that the deceased was aged 15 years by the date of accident. Though the petitioners in the claim petition pleaded that he was doing business and earning Rs.3,000/- per month, no document was placed to substantiate the same. Even otherwise in ordinary course of life conducting business at the age of 15 without specifics cannot be believed. Therefore, the deceased shall be considered as non-earning member. With regard to the notional income, having regard to the petitioner relied authority and the age of the child/deceased, a notional income taken at Rs.30,000/- per annum found appropriate. In this view the notional income is multiplied with the multiplier applicable to the age of the deceased i.e., 15, as prescribed in the schedule-II, the total amount comes to Rs.4,50,000/-. This petitioners are entitled to this amount towards loss of dependency. In addition the parents are also entitled to Rs.15,000/- towards funeral charges and Rs.40,000/- each to the 1st and 2nd petitioner towards filial consortium.

11. Thus, in total, the petitioners are eligible for the compensation as follows:

DESCRIPTION	AMOUNT (Rs.)
Loss of Dependency	4,50,000.00
Funeral Charges	15,000.00
Filial consortium to the 4 th petitioner	80,000.00
TOTAL	5,45,000.00

12. Resultantly, the appeal is allowed in the following terms:

(i) the respondents are liable to pay Rs.5,45,000/- (Rupees five lakhs forty five thousand only) with interest @ 7.5% per annum with costs., from the date of petition till date of realization;

ii) the respondents are directed to deposit the awarded amount within one month from the date of receipt of a copy of this judgment;

(iii) the apportionment among the petitioners shall be in terms of the impugned award.

(iv) on deposit of the awarded amount, the petitioners are permitted to withdraw entire amount apportioned in their favour.

As a sequel, miscellaneous petitions, pending if any, shall stand closed.

N.TUKARAMJI, J

Date: 15.07.2022
VRKS

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