THE HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

MA.CMA.NO.1338 OF 2014

JUDGMENT

Assailing the award and decree dated 12.08.2013 passed by the Motor Accident Claims Tribunal – cum – The Court of the Chief Judge, City Civil Court, Hyderabad in MVOP.No.927 of 2012, the claimants filed the present appeal seeking enhancement of compensation.

2. Heard Sri P.Ramakrishna Reddy, learned counsel for the appellants / claimants and Sri A.Ramakrishna Reddy, learned counsel for the 2nd respondent – insurance company.

3. The deceased is one Gadasandula Dasaradha, the claimants are his wife, children and mother.

4. The case of the claimants is that on 03.02.2012 at about 10.00 a.m., the deceased was proceeding as owner-cum-driver on his auto bearing registration No. AP 28 V 6877 from Bachupally side towards Gandimaisamma cross roads, and that when he reached place near V.N.R. College, Bachupally, the driver of the Skoda Car bearing registration No. AP 09 CF 0035 coming from opposite direction, driven by its driver in a rash and negligent manner at high sped, dashed the auto of the deceased, as a result, the deceased sustained injuries and while he was being shifted to Gandhi Hospital in 108 Ambulance, succumbed to the injuries. Police registered a case against the driver of the car.

5. The case of the claimants is that the deceased was aged 37 years at the time of accident, and he used to run an auto on hire as owner-cum-driver and used to earn an amount of Rs.15,000/- per month and was contributing the entire earnings to the family and due to his sudden death, they lost their breadwinner. With these averments, they filed claim petition under Section 166 of the Motor Vehicles Act, 1988, claiming a compensation of Rs.15,00,000/-.

6. The 1st respondent who is the owner of the car and insured, as well as the 2nd respondent insurer filed counter affidavits and while denying the manner of accident pleaded by the claimants, and also denying his age, avocation and income and further contending that the compensation claimed is excessive, sought for dismissal of the claim petition.

7. The Tribunal considering the evidence of P.W.2, who is an eye witness to the accident, coupled with Exs.A-1 to A-5, held that the accident occurred due to rash and negligent driving of the driver of the car and that the deceased died due to the injuries sustained in the said accident.

8. In the present case, the dispute is only with regard to quantum and the claimants filed the present appeal seeking enhancement of compensation.

9. A perusal of the impugned award goes to show that though the claimants claimed that the deceased was owner cum driver of the auto and that he was earning an amount of Rs.15,000/- per month, failed to file any documentary evidence on record, and also they failed to examine any independent evidence, and Ex.B-3 which is the registration certificate of the

auto shows that the deceased was not the owner. However, the Tribunal taking the age of the deceased, who is a able bodied person, and also considering his driving licence, which was marked as Ex.A-6, and also taking into account future career of the deceased and computing his future prospects, has taken his monthly income as Rs.8,000/- per month. Further, deducting 1/4th towards his personal and living expenses, and by applying the multiplier of 14, as the deceased was found to be aged 42, since he was born on 12.4.1970 and the accident happened on 3.2.2012, applied the multiplier of 14, by relying on the judgment of the Apex Court in ***SARLA VERMA v. DELHI TRANSPORT CORPORATION***[1], and thus granted an amount of Rs.10,08,000/- towards loss of dependency. Further relying on the judgment of the Apex Court in ***RAJESH AND OTHERS vs. RAJBIR SINGH AND OTHERS***[2], granted an amount of Rs.1,00,000/- towards loss of consortium, Rs.1,00,000/- towards compensation for loss of care and guidance for minor children, Rs.25,000/- towards funeral charges, Rs.5,000/- towards transportation charges and Rs.5,000/- towards loss of estate. Thus in all granted an amount of Rs.12,43,000/- with interest at the rate of 7.5 per cent per annum from the date of the claim petition till the date of realization and also passed orders with regard to apportionment of compensation among the claimants and the deposit of the amount in nationalized bank and its withdrawal. The respondents 1 and 2, who are the insured and the insurer are jointly and severally made liable to pay the amount.

---

[1] 2009 ACJ 1298
[2] 2013 ACJ 1403

10. Having regard to the facts and circumstances of the case, I do not find any reason to interfere with the well considered judgment of the Tribunal and the appeal is devoid of any merits and the same is accordingly dismissed.

11. Interlocutory Applications pending, if any, shall stand closed. No order as to costs.

M.G.PRIYADARSINI,J

DATE:14—09—2022
avs