

HONOURABLE SRI JUSTICE N. TUKARAMJI

MACMA.No.3136 of 2007

JUDGMENT:

The daughter, son and husband of Smt.Shivakoti Dhana Laxmi, who died in a motor accident occurred on 04.11.2005, filed claim petition in O.P.No.981 of 2005 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-Principal District Judge, Nalgonda, seeking compensation of Rs.4,00,000/-. The Tribunal in the impugned award rendered Rs.1,94,500/- with interest at 7.5% per annum as compensation.

2. Dissatisfied by the awarded sum and by contesting that, the learned Tribunal erred in disbelieving the pleaded occupation and even failed to properly measure the probable income of domestic services and the future prospects and inadequate amounts were awarded under the conventional heads, marked this appeal for higher compensation.

3. The petitioners case is that on 4.11.2005, while Dhana Laxmi/deceased along with her husband and relatives was returning to Chityal in car bearing registration No.AP28M 1129 and at about 3.45 pm., when they reached Settipalem village limits, a lorry bearing registration No. MP09KD 1030, came in opposite direction and dashed their car, which resulted in grievous injuries to Dhana Laxmi/deceased and on the way to hospital succumbed to her injuries.

4. The petitioners pleaded that Dhana Laxmi/deceased was 40 years of age and as a tailor and by earning Rs.3,000/- per month, used to contribute her earnings to the family. Thus, claiming loss of dependency, filed the claim petition.

5. Heard the learned counsel for the appellants Sri Chandrasekhar Reddy Gopireddy and learned counsel for 2nd respondent Sri N.Mohana Krishna.

6. In this position, the point for determination is:

“Whether the compensation awarded by the Tribunal is just and proper?”

7. The petitioners failed to file any specific document to prove the age and occupation of Dhana Laxmi/deceased. However, relying on the entries in Ex.A3/post mortem report and Ex.A2/inquest report are referring the age of Dhana Laxmi/deceased can be taken as 40 years by the date of accident.

8. In respect to the occupation and the income, except the oral claim of the petitioners, no material is placed for consideration. In the inquest report, the occupation of the deceased is mentioned as house wife. Be that as it may, the services of Dhana Laxmi/deceased as house wife can safely be quantified at Rs.3,000/- per month as claimed by the petitioners by reckon on the dictum of the Hon'ble Supreme Court in *Lata Wadhwa Vs. State of Bihar*¹. In addition, as held by the Hon'ble Apex Court in the **National Insurance Company Ltd. vs. Pranay Sethi and others**², towards future prospects, the age of Dhana Laxmi/deceased, 25% shall also be included. Correspondingly, the annual income

¹ (2001) 8 SCC 197

² (2017) 16 SCC 860

comes to Rs.45,000/- (Rs.36,000 + 9,000). Furthermore, as the dependents are 3 in number, $1/3^{\text{rd}}$ of the annual income has to be deducted for the personal expenses, thus the contribution of the deceased to the appellants/petitioners would be Rs.30,000/-. If this sum is multiplied with the relevant multiplier for the age of the deceased, the sum works out to Rs.4,50,000/- (Rs.30,000 x 15). The appellants/ petitioners are entitled to this amount towards 'loss of dependency'.

9. In addition, the appellants/petitioners are also entitled for compensation under the conventional heads, viz., Rs.15,000/- towards Loss of Estate and Rs.15,000/- towards funeral charges. The 3^{rd} appellant/petitioner is entitled for spousal consortium at Rs.40,000/- and 1^{st} and 2^{nd} petitioners/appellants are entitled for parental consortium at Rs.80,000/- (Rs.40,000/- each).

10. Thus, in total, the appellants are eligible for the compensation as follows :

DESCRIPTION	AMOUNT (Rs.)
Loss of Dependency	4,50,000.00
Loss of Estate	15,000.00
Funeral Charges	15,000.00
Spousal consortium	40,000.00
Parental Consortium	80,000.00
TOTAL	6,00,000.00

11. For the aforesaid reasons, the Appeal is allowed as follows:

(i) the respondents are jointly and severally liable to pay Rs.6,00,000/- (Rupees six lakhs 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 appellants/petitioners and shall be in terms of the tribunal award.

(iv) on deposit of the awarded amount, the appellants / petitioners are permitted to withdraw entire amounts, as apportioned.

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

N.TUKARAMJI, J

Date: 13.06.2022

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