

THE HON'BLE JUSTICE G. SRI DEVI

M.A.C.M.A. No. 1704 of 2015

JUDGMENT:

The New India Assurance Company Limited, respondent No. 2 before the Tribunal, preferred this appeal challenging the order and decree, dated 06.08.2014, passed in M.V.O.P.No. 828 of 2012 on the file of the Motor Accident Claims Tribunal (Special Sessions Judge for Trial of cases under SCs & STs (POA) Act, 1989--cum-Additional District Judge) at Khammam.

The claimants-respondent Nos. 1 to 3 herein, filed the claim petition seeking compensation of Rs.18,00,000/- for the death of the deceased-Sirikonda Satyanarayana in the accident that occurred on 28.02.2012 involving the crime vehicle i.e. Lorry bearing No. AP 24TB 1008, owned by the respondent No.4 herein and insured with the appellant. According to the claimants, the deceased was RTC driver, aged about 44 years at the time of the accident and was drawing salary of Rs.17,217/- per month. While the owner of the crime vehicle remained ex parte, the appellant herein contested the O.P. Considering the claim and the counter filed by the Insurance Company and on evaluation of the evidence, both oral and documentary, the learned Tribunal has allowed the O.P. and awarded total compensation of Rs.18,00,000/- with 7% interest per annum, holding the owner of the offending vehicle and

the insurance company jointly and severally liable to pay the compensation.

Heard the learned counsel for the parties and perused the material available on record.

The only contention of the learned Standing Counsel for the appellant is that the learned Tribunal while taking into consideration Ex.A.6 salary certificate of the deceased for determining the compensation, erred in not deducting the amount towards personal expenses of the deceased thereby erroneously awarded the excessive compensation.

On the other hand, learned counsel appearing for respondent Nos. 1 to 3-claimants, contended that the compensation awarded by the learned Tribunal is just and reasonable and needs no interference by this Court. In fact, the rate of interest awarded by the tribunal is very low and needs enhancement.

There is no dispute with regard to the manner of the accident and the rash and negligent driving of the offending vehicle in causing the accident on 28.02.2012 that resulted in the death of the deceased. As seen from the impugned order, the tribunal has taken the gross salary of the deceased into consideration, as

reflected in Ex.A.6 but it has not deducted the personal expenses of the deceased therefrom. Therefore, this Court is inclined to determine the just compensation basing on the evidence available on record. As seen from the service particulars, the deceased was aged about 52 years and was earning gross salary of Rs.17,272/- as reflected in Ex.A.6. As there are three dependents, duly deducting 1/3rd therefrom towards personal expenses of the deceased, the net monthly income that may be contributed to the family comes to Rs.11,515/- which translates to Rs.1,38,180/- as annual income. Considering the age of the deceased, the appropriate multiplier would be '11'. Therefore, duly applying the said multiplier to the annual income, the loss of dependency comes to Rs.15,19,980/-. Apart from the same, as rightly contended by the learned counsel for the claimants, the claimants are entitled to Rs.77,000/- towards conventional heads. Thus, the total compensation comes to Rs.15,96,980/-, which can be rounded off to Rs.15,97,000/-. Thus, the amount of Rs.18.00 lakhs awarded by the tribunal is hereby reduced to Rs.15,97,000/-. However, as regards the rate of interest, awarded by the Tribunal, as per the decision of the Apex Court in **Rajesh and others v. Rajbir Singh and others**¹, the interest granted by the Tribunal @ 7% per annum is meager and

¹ 2013 ACJ 1403 = 2013 (4) ALT 35

the same is enhanced to 7.5% per annum on the compensation amount now fixed by this Court from the date of petition till the date of realization.

In the result, the M.A.C.M.A. is allowed in part. The compensation amount awarded by the tribunal is reduced to Rs.15,97,000/- from Rs.18,00,000/-. However, the said compensation amount shall carry interest at 7.5% per annum from the date of the petition till the date of realization to be paid by the appellant within a period of one month from the date of receipt of a copy of this order, after giving due credit to the amount already deposited, if any. No order as to costs.

Miscellaneous petitions, if any pending, shall stand closed.

JUSTICE G. SRI DEVI

01.07.2022
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DATE: 01-07-2022