THE HON'BLE SRI JUSTICE T. VINOD KUMAR

M.A.C.M.A. No. 441 of 2014

ORDER:

1. This Motor Accident Civil Miscellaneous Appeal is filed by the appellants/claimants aggrieved by the order dated 08.11.2011 in M.V.O.P. No. 1290 of 2008 on the file of the Motor Accidents Claims Tribunal – Cum – District Judge, Ranga Reddy District, at L.B. Nagar (for short 'the Tribunal') on the ground that the Tribunal had grossly failed to consider the nature of the claim made by them.

2. The brief facts of the case are that the appellants are the parents of the deceased Mr. Dhan Borah @ Dhanti Borah. He was 21 years of age and was working as Security Supervisor with Om Shiva Shakti Security Force, IDPL. On the afternoon of 30.09.2008, the deceased along with one Mr. Raju Borha were travelling on the deceased's motorcycle to attend their duties when an RTC Bus Bearing No. AP 09Z 8254 of Route No. 224X coming in a rash and negligent manner, had dashed the deceased's motorcycle at KJR Weigh Bridge, Bachupally. The accident

resulted in the instant death of the deceased and caused severe injuries to the pillion rider.

3. The appellants filed the aforesaid OP against the Respondents claiming a compensation of Rs. 7,00,000/- for the death of the deceased.

4. The Tribunal after considering the evidence on record, had held that the accident had occurred due to the negligence of the RTC Bus driver. On holding so, the Tribunal granted the claimants compensation of Rs.3,00,000/- together with proportionate costs and future interest @ 7.5% p.a. from the date of the petition i.e., Rs. 2,52,000/- towards loss of earnings, Rs. 10,000/- towards loss of estate and Rs. 38,000/- towards loss of love and affection, transportation charges and funeral expenses. Aggrieved by the same, the present appeal is preferred.

5. The contention of the appellants is that, the Tribunal had erred in taking the age of the appellant No. 2 for determining the Multiplier. It is further contended that the Tribunal had passed the order without considering the Salary Certificate and School

Transfer Certificate of the deceased marked as Ex.A-8 and Ex.A-9 and that no funeral expenses were granted.

6. Learned Counsel for the respondents on the other hand contended that the Tribunal had rightly granted compensation and that the order suffered from no infirmity. Thereby, it was contended that the present appeal is devoid of merit and is liable to be dismissed.

7. Heard Mr. Goli Viplav Reddy, learned Counsel for the appellants and Mr. N. Vasudeva Reddy, learned Standing Counsel appearing for the Respondents.

8. In view of the arguments advanced and the material on record the issue before this court is two fold:

i. Whether the salary of the deceased was rightly fixed?

ii. Whether the Tribunal had rightly applied the Multiplier in calculating compensation?

9. The income of the deceased is claimed to be Rs.5,000/- p.m. The appellants had marked the Salary Certificate of the deceased as Ex.A-8 and examined the employer of the deceased as PW-3 who

had corroborated the Salary Certificate. It is to be seen that the Tribunal while holding that there was no sufficient evidence, had not given a finding on evidentiary value of the deceased's Salary Certificate. Rather it had noted that the Employer of the deceased had not filed any documentary evidence to prove that he was proprietor of the organization. Such a finding is erroneous, as the Motor Vehicles Act, 1988 is a beneficial legislation where the standard of proof to be borne in mind is that of preponderance of possibilities. The Supreme Court in the case of ***Rajwati and Ors. Vs. United India Insurance Company Ltd. and Ors.***[1]**,** has held as under:

> 17. Reference in this connection may also be made to the observations made by this Court in the case of Sunita and Ors. v. Rajasthan State Road Transport Corporation and Ors. MANU/SC/0204/2019 : (2020) 13 SCC 486, wherein it was observed as under:
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> > It is thus well settled that in motor accident claim cases, once the foundational fact, namely, the actual occurrence of the accident, has been established, then **the Tribunal's role would be to calculate the quantum of just compensation if the accident had taken place by reason of negligence of the driver of a motor vehicle and, while doing so, the Tribunal would not be strictly bound by the pleadings of the parties. Notably, while deciding cases arising out of motor vehicle accidents, the standard of proof to be borne in mind must be of preponderance of probability and not the strict standard of**

[1]MANU/SC/1595/2022 :2022 LiveLaw (SC) 1016

proof beyond all reasonable doubt which is followed in criminal cases.

18. Similarly, in the case of Kusum Lata and Ors. v. Satbir and Ors. MANU/SC/0165/2011 : (2011) 3 SCC 646, this Court observed that it is well known that in a case relating to motor accident claims, **the claimants are not required to prove the case as it is required to be done in a criminal trial. The Court must keep this distinction in mind.**

19. It is well settled that Motor Vehicles Act, 1988 is a beneficial piece of legislation and as such, while dealing with compensation cases, once the actual occurrence of the accident has been established, the Tribunal's role would be to award just and fair compensation. As held by this Court in Sunita (Supra) and Kusum Lata (Supra), strict Rules of evidence as applicable in a criminal trial, are not applicable in motor accident compensation cases, i.e., to say, "the standard of proof to be borne in mind must be of preponderance of probability and not the strict standard of proof beyond all reasonable doubt which is followed in criminal cases".

20. **In view of the above, we do not agree with the view taken by the High Court while rejecting the salary certificate (Exhibit 19) and pay slip (Exhibit 20) of the deceased merely on the ground that the person issuing the two aforementioned documents was not examined before the Learned Tribunal. The said documents are conclusive proof of the income of the deceased and were also corroborated by the statements of the deceased's wife (Appellant No. 1 herein) and his co-workers.** As such, the High Court was not justified in assessing the income of the deceased at Rs. 4,836/- per month on the basis of minimum wages fixed by the State at the relevant time. Resultantly, we affirm the findings of the Learned Tribunal so far as they relate to assessing the deceased's income at Rs. 11,225/- per month on the basis of aforementioned two documents. Annual income

of the deceased, therefore, amounts to, Rs. 11,225/- x 12 = Rs. 1,34,700/-.

10. The Tribunal was not required to consider the evidence placed before it, by applying strict standard of proof. If it was of the view that there was no satisfactory evidence, then the minimum wages at the relevant time, had to be applied in order to arrive at the income of the deceased. This Court is unable to understand the reasoning of the Tribunal in computing the monthly income of the deceased as Rs.3,000/-, as at the relevant point of time viz., during the year 2008, the minimum wages of an unskilled manual labourer was Rs.150/- per day i.e., Rs.3,900/- per month (150 x 26). Further, the minimum wages of an unskilled security guard in 2008 was Rs.5,000/- per month. However, as the deceased was a Security Supervisor, this Court is of the view that it is just to fix his monthly income at Rs.5,000/-.

11. While considering the question of appropriate Multiplier to be applied, though the Tribunal had rightly referred to the case of ***Sarla Verma and Ors. Vs. Delhi Transport Corporation and***

Ors.[2], it had misled itself in holding that the age of the mother was to be applied, since the deceased was a bachelor. The position of law on this aspect was clarified by the Supreme Court on multiple occasions, including in the case of ***Sarla Verma*** (Supra), ***National Insurance Company Limited Vs. Pranay Sethi and Ors***[3]**,** etc, that the age of the deceased should be the basis for applying the multiplier.

12. The finding with regard to the age of the deceased being 20 years on the basis of the Transfer Certificate marked as Ex.A-9, in view of this Court is correct and needs no interference. Therefore, the correct Multiplier to be applied according to the column (4) of the Table in ***Sarla Verma's*** case (Supra) is 18.

13. In the light of the aforesaid discussion, the monthly income of the deceased is fixed at Rs.5,000/-. The appellants are entitled an addition of 40% of the income towards loss of future prospects. Thus, the monthly income of the deceased comes to Rs.7,000/- (Rs. 5000/- + Rs. 2,000/-). Therefore, the annual contribution to the appellants i.e., dependents, after 50% deduction towards personal

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[2] (2009)6SCC121
[3] (2017)16SCC680

expenses as the deceased was a bachelor comes to Rs.42,000/- (3,500 x 12) per annum. As the age of the deceased is 20 years, the appropriate multiplier as discussed earlier is ‘18’. Thereby, compensation for the loss of dependency is Rs.7,56,000/- (Rs.42,000/- x 18). In addition, the appellants are entitled to conventional heads of compensation as per ***Pranay Sethi’s*** case (Supra). Therefore, the total compensation payable to the appellants is as under:

Sl.No.	Heads of Compensation	Amount (in Rupees)
1.	Loss of Dependency	7,56,000/-
2.	Loss of Estate	16,500/-
3.	Loss of Filial Consortium	44,000/-
4.	Funeral Expenses	16,500/-
	TOTAL	8,33,000/-

14. Accordingly, the present Motor Accident Civil Miscellaneous Appeal is allowed. The compensation awarded by the Tribunal is enhanced from Rs.3,00,000/- to Rs. 8,33,000/-. The enhanced amount shall carry an interest of 7.5% p.a. from the date of the claim petition to the date of realization. However, as the appellants have only claimed Rs.7,00,000/- in the original petition,

they are directed to deposit the deficit court fee before the Tribunal.

15. Pending miscellaneous petitions if any, shall stand closed. No order as to costs.

T. VINOD KUMAR, J

Date: 17.02.2023.

MRKR/VSV

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