

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

M.A.C.M.A. No. 2281 of 2015

JUDGMENT:

Being not satisfied with the quantum of compensation awarded in the award and decree, dated 31.07.2014 made in O.P.No.118 of 2012 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-II Additional District Judge, Karimnagar at Jagtial (for short "the Tribunal"), the appellant/claimant preferred the present appeal seeking enhancement of the compensation.

2. For the sake of convenience, the parties will be hereinafter referred to as arrayed before the Tribunal.

3. The facts, in issue, are as under:

4. The claimant filed a petition under Section 163-A of the Motor Vehicles Act, 1988 claiming compensation of Rs.6,00,000/- for the death of his widowed issueless daughter, who was staying with him. It is stated that on 22.07.2011 at about 7:00 p.m., while the deceased, along with others, was traveling in a Car and when the car

reached the outskirts of Thippannapet village, the said car rammed to a stationed tractor-trailer, as it was parked it on the middle of the road without taking any precautionary measures like blinking parking indicators, keeping of stones and plants around it as an indication of its parking on the road. As a result, the deceased and other inmates of the car sustained injuries and despite prolonged treatment, the deceased died. The police registered a case against the driver of the tractor-trailer and filed charge sheet against him. It is further stated that the deceased was aged about 25 years as on the date of accident and was earning Rs.3,300/- per month as tailor and she used to maintain the claimant, who was aged about 65 years, and due to sudden demise of the deceased, the claimant lost his source of income. Hence, the claimant has filed the claim-petition against respondent Nos.1 to 3, who are the driver, owner and insurer of the offending vehicle, tractor-trailor.

5. After considering the claim and the counters filed by the respondents, and on evaluation of the evidence, both oral and documentary, the learned Tribunal has partly allowed the O.P. and awarded compensation of Rs.3,76,400/- with interest at 7.5% per annum. Aggrieved by the same, the present appeal has been filed by the claimant, seeking enhancement of the compensation.

6. Heard both sides and perused the material available on record.

7. The main contention raised by the learned counsel appearing for the appellant/claimant is that since the deceased was a widow, the Tribunal ought to have deducted 1/3rd towards her personal expenses instead of 50% and therefore, prayed to enhance the compensation.

8. Learned Standing Counsel appearing for the Insurance Company has submitted that the deceased is the daughter of the claimant and as he is not dependant on the deceased, the Tribunal has rightly deducted 50%

towards personal expenses and therefore, prayed to dismiss the appeal.

9. The finding of the Tribunal with regard to the manner in which the accident took place has become final as the same is not challenged by the respondents.

10. Insofar as the quantum of compensation is concerned, the record reveals that the deceased was the widowed daughter of the claimant and was residing with him. As rightly contended by the learned counsel for the claimant as the deceased was not a bachelor but widow, the Tribunal ought to have deducted 1/3rd amount towards personal expenses, but erroneously deducted 50% towards her personal expenses. The Tribunal has rightly taken the income of the deceased at Rs.39,600/- per annum as the claim-petition was filed under Section 163-A of the Motor Vehicles Act. Following ***Sarla Verma v. Delhi Transport Corporation***¹, 1/3rd is to be deducted from the income of the deceased towards personal expenses of the

¹ 2009 ACJ 1298 (SC)

deceased. After deducting $1/3^{\text{rd}}$ amount towards her personal and living expenses, the contribution of the deceased to the claimant would be Rs.26,400/- per annum. Since the age of the deceased was 25 years at the time of the accident, the appropriate multiplier is '18' as per the II Schedule of the Motor Vehicles Act. Adopting multiplier '18', the total loss of dependency works out to Rs.26,400/- x 18 = Rs.4,75,200/-. Further, the claimant is also entitled to Rs.20,000/- as awarded by the Tribunal under the conventional heads. Thus, in all the claimant is entitled to Rs.4,95,200/-.

11. Accordingly, M.A.C.M.A. is allowed in part. The compensation amount awarded by the Tribunal is hereby enhanced from Rs.3,76,400/- to Rs.4,95,200/-. The enhanced amount will carry interest at 7.5% p.a. from the date of passing of award by the Tribunal till the date of realization. Respondent Nos. 1 to 3 are jointly and severally liable to pay the said compensation. Time to deposit the entire compensation is two months from the

date of receipt of a copy of this judgment. On such deposit, the claimant is entitled to withdraw entire compensation amount without furnishing any security. There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE M.G.PRIYADARSINI

02.01.2023
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DATE: -12-2022