

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3291 of 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988 (for short, "the Act"), is filed by the appellant-United India Insurance Company Limited, challenging the Order, dated 12.03.2004, passed in O.P.No.897 of 2000, by the Chairman, Motor Accidents Claimants Tribunal-cum-Principal District Judge, Ranga Reddy District at L.B.Nagar, Hyderabad (for short, "the Tribunal").

2. Heard the learned Standing Counsel for the appellant-Insurance Company, the learned counsel for respondents 1 and 2 and perused the record.

3. The learned Standing Counsel for appellant-Insurance company would contend that the Tribunal, without there being proper evidence on record with regard to the avocation of the deceased-B.Soma Raju, held that the deceased was earning Rs.1,800/- per month by working as a sales man under P.W.3 and Rs.600/- per month by doing part time business in vegetables. The Tribunal granted excess compensation of Rs.3,56,072/- with interest @ 9% per annum from the date of award till the date of payment and ultimately, prayed to allow the appeal by setting aside the order under challenge.

4. On the other hand, learned counsel for respondents 1 and 2-claimants would contend that the Tribunal is justified in granting compensation of Rs.3,56,072/- with interest @ 9% per annum from the date of award till the date of payment. There are no

grounds to reduce the compensation or to set aside the order under challenge and ultimately, prayed to dismiss the appeal.

5. It is not in dispute that the deceased-B.Soma Raju suffered fatal injuries in the subject accident occurred on 03.04.2000 and succumbed to the same, due to rash and negligent driving of driver of the lorry bearing registration No.AP-13-T-2707. The point that arises for determination in this appeal is whether the compensation awarded by the Tribunal in favour of respondents 1 and 2-claimants is liable to be reduced.

6. As per the evidence on record, P.W.3-K.Santhoshkumar Goud, who was running a toddy shop and under whom the deceased used to work as sales man, deposed that the deceased used work under him as Salesman and was being paid a monthly salary of Rs.1,800/- apart from Rs.20/-per day as batta. He further deposed that the deceased was aged about 26 years at the time of the subject accident. The evidence on record would further disclose that the deceased, apart from working as a sales man under P.W.3, used to run a Kirana and vegetable shop at Jagathgirigutta and was earning Rs.3,000/- per month. The Tribunal, considering the avocation of the deceased, took the monthly income of the deceased at Rs.2,400/-, i.e., Rs.1,800/- by working as a Salesman under P.W.3 and Rs.600/- by doing part time business by selling vegetables, deducted 1/3rd of it towards personal expenses of the deceased and by applying the relevant multiplier '17.66', granted an amount of Rs.3,39,072/- towards loss of dependency. The Tribunal further granted an amount of Rs.15,000/- towards loss of consortium to the 1st appellant-1st

claimant (wife of the deceased) and Rs.2,000/- towards funeral expenses. In all, the Tribunal granted an amount of Rs.3,56,072/- with interest @ 9% per annum from the date of Award till the date of payment in favour of the claimants.

7. Admittedly, the Tribunal granted lesser compensation towards loss of consortium as well as funeral expenses. Further, the Tribunal did not grant any compensation towards loss of estate. Under these circumstances, the Tribunal is justified in taking the monthly income of the deceased at Rs.2,400/- and granting a compensation of Rs.3,56,072/- with interest at 9% per annum from the date of Award till the date of payment. Moreover, grant of aforementioned compensation in favour of the claimants, who are the wife, daughter and mother of the deceased, for the death of an earning person aged 26 years, cannot be held to be excessive. There are no circumstances to reduce the compensation awarded by the Tribunal in favour of the claimants. The appeal is devoid of merit and is liable to be dismissed.

8. In the result, the appeal is dismissed. No costs.

Pending miscellaneous petitions, if any, shall stand closed.

AUGUST 31 2018
YVL

Dr. SHAMEEM AKTHER, J

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Date:31.08.2018

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