

A D. SHANMUKHA SUNDARAMMA
v.
D. SUNEETHA AND ORS.
(Civil Appeal No. 818 of 2009)

B FEBRUARY 9, 2009
**[DR. ARIJIT PASAYAT AND DR. MUKUNDAKAM
SHARMA, JJ.]**

C *Motor Vehicles Act, 1988 – s.166 – Death due to motor
accident – Compensation claim – Tribunal awarded
compensation of Rs.3.40 lacs and directed that the amount
be paid equally to wife and mother of the deceased – High
Court on a finding that the wife was hardly 20 years of age,
directed a sum of Rs.50,000/- to be paid to mother and the
D balance to the wife – Held: On facts, considering the age of
wife and mother of the deceased, it would be appropriate to
grant a sum of Rs.1.25 lacs to the mother and the balance to
the wife.*

E **An Auto-driver lost his life in a vehicular accident
when a lorry dashed against his auto rickshaw.
Respondent no.1, widow of the deceased, filed claim
petition under s.166 of the Motor Vehicles Act, 1988.
Before the Claims Tribunal, the appellant, mother of the
deceased, also claimed entitled to compensation. The
F tribunal awarded compensation of Rs.3,40,068/- along
with 12% interest and further directed that the amount be
paid equally to respondent no.1 and the appellant. The
matter was challenged in appeal by the respondent no.1.
G The High Court found that respondent no.1 was hardly
20 years of age and, therefore, a sum of Rs.50,000/- was
directed to be paid to the appellant and the balance to
respondent no.1.**

H **The only issue in the present appeal was the amount**

to which the appellant i.e. the mother of the deceased would be entitled. A

Partly allowing the appeal, the Court

HELD: Considering the peculiar facts of the case, the age of the widow and that of the appellant, it would be appropriate to grant a sum of Rs.1,25,000/- (Rupees One Lakh and Twenty Five Thousand only) to the appellant and the balance to the claimant-wife i.e. the widow of the deceased. [Para 10] [1067-C-F] B

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 818 of 2009. C

From the final Judgment and Order dated 22.11.2006 of the High Court of Andhra Pradesh at Hyderabad in Civil Miscellaneous Appeal No. 3622 of 2000. D

Y. Raja Gopala Rao, Y. Ramesh and B.V. Niren for the Appellant.

Ravi Bakshi and Y.P. Dhingra for the Respondents. E

The Judgment of the Court was delivered by

DR. ARIJIT PASAYAT, J. 1. Leave granted.

2. Heard learned counsel for the appellant. F

3. None appears on behalf of the respondent no. 1 and 3 in spite of notice. Respondent no. 2 has died.

4. Challenge in these appeals is to the order passed by a learned Single Judge of the Andhra Pradesh High Court. G

5. The background facts in a nutshell are as follows:

One Sudhakar Rao (hereinafter referred to as the 'deceased') lost his life in a vehicular accident on 13.11.1998. He was an Auto-driver who was driving Auto Rickshaw No.AP H

- A 26 6164. A lorry bearing No. ATC-1035 dashed against the auto rickshaw resulting in the death of the deceased. The claimant filed a claim petition under Section 166 of the Motor Vehicles Act, 1988. A sum of Rs.4,00,000/- was claimed as compensation by respondent No.1 who is the widow of the deceased. One E. Lokanadham Naidu was the owner of the offending vehicle. In the claim petition, the owner as well as M/s United India Insurance Company Ltd. (hereinafter referred to as the 'insurer') were impleaded as parties along with the present appellant, who is the mother of the deceased. It was indicated in the claim petition that both the claimant and the present appellant were entitled to compensation. Appellant filed a counter affidavit before the Motor Accident Claims Tribunal, cum-IVth Additional District Judge, Tirupathi (hereinafter referred to as 'MACT') taking the stand that after the death of the deceased the claimant had deserted her and was not looking after her welfare and, therefore, she was also entitled to compensation in equal measure along with the claimant. The MACT, by award dated 21.8.2000 in O.P. No.101 of 1999 awarded compensation of Rs.3,40,068/- along with 12% interest. Costs were also awarded. The MACT directed that the amount should be paid equally to the claimant and the present appellant. Any amount paid under Section 140 of the Act was to be adjusted from the amount payable on the basis of the award. The matter was challenged in appeal by the claimant.
- F Basic question was whether the Tribunal was justified in directing equal opportunity. The present appellant took the stand that the claimant was engaged as a Home guard and that she was living separately. But she denied the stand that she was getting Rs.80/- per day. It was stated that she was receiving much less. The appellant's stand was that she was solely dependant for her livelihood on the earning of her son. The High Court was of the view that the claimant was hardly 20 years of age and, therefore, a sum of Rs.50,000/- was directed to be paid to the present appellant and the balance to the claimant widow.
- H

6. Learned counsel for the appellant submitted that the approach of the High Court is clearly erroneous. A

7. It is pointed out that total amount deposited by the Insurance Company is Rs.4,22,438/-. On the basis of the High Court's order, both the appellant and the widow of the deceased have withdrawn one fourth amount each. The insurer has filed an affidavit indicating that it has no role on the question of apportionment which has to be decided by the court. In any event, the interest as awarded, is much higher than what is normally awarded. B C

8. Stand of the claimant before the MACT and the High Court appears to be that the present appellant is being maintained by her son, but she has no one to depend upon.

9. Though there appears to be some substance in the plea of the insurer regarding the rate of interest, in the absence of any appeal by it, there is no scope for interfering with the rate. Had there been any appeal, there would be certainly scope for interference. D

10. The only issue in the present appeal is the amount to which the present appellant i.e. the mother of the deceased would be entitled. Considering the peculiar facts of the case, the age of the widow and that of the present appellant, we think it would be appropriate to grant a sum of Rs.1,25,000/- (Rupees One Lakh and Twenty Five Thousand only) to the appellant and the balance to the claimant-wife i.e. the widow of the deceased. E F

11. The appeal is allowed to the aforesaid extent without any order as to costs. G

B.B.B.

Appeal partly allowed.