THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.CMA.No.1369 OF 2009

JUDGMENT:

The present appeal is preferred by the parents of one P. Nagaraju @ Nagaraj Goud, who died in a road accident, along with their another son, claiming that he was also dependant on the deceased as he was an unemployee, having been dissatisfied with the award of Rs.1,35,000/- as compensation by order and decree, dated 17.08.2004, in O.P.No.1104 of 2001 on the file of Chairman, Motor Accidents Claims Tribunal – cum –XXI Additional Chief Judge – cum – VII Additional Metropolitan Sessions Judge for the trial of Communal Offence Cases, Red Hills, Hyderabad, as against the claim of Rs.3,00,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act').

2. The fact situation occurring in the instant case, including the manner in which the accident did take place, the age of the deceased being 25 years on the date of accident, and his death in the accident due to rash and negligent driving of the R.T.C. bus, is not in dispute. The only disputed question is, the quantum of compensation awarded by the Tribunal on the ground that a meagre compensation was granted and, therefore, the present appeal for grant of balance amount.

3. Heard Sri V. Atchuta Ram, learned counsel for the appellants, and Sri N. Vasudeva Reddy, learned Standing Counsel for respondent – Corporation.

4. Perused the order under challenge and the evidence on record.

5. The Tribunal, having disagreed with the stand of the appellants that the deceased was earning Rs.4,800/- per month working as sales man in M/s. Sri Sai Wines, Chikkadpally, Hyderabad, on the ground that PW.3 has not produced any document to show that he was running the proprietary concern, taken the notional income at Rs.15,000/- per annum, as per second schedule to Section 163A of the Act, and deducting 1/3rd therefrom towards the personal expenses of the deceased, by applying multiplier '13', taking the age of father of the deceased, arrived the loss of dependency at Rs.1,30,000/-. Besides the same, the Tribunal has granted a sum of Rs.5,000/- towards funeral expenses. Thus, a total sum of Rs.1,35,000/- was granted.

6. The law is well crystallised now in view of the decisions of the Honourable Supreme Court in **Sarla Verma v. Delhi Transport Corporation**[1] and **Rajesh and others v. Rajbir Singh and others**[2]. Admittedly, the deceased died in unmarried status. The notional income provided in the second schedule to Section 163A of the Act was in the year 1994. That was the reason, the Honourable Supreme Court in later decisions declared that minimum earning of a person should be taken as Rs.3,000/- per month or Rs.36,000/- per annum

[1] (2009) 6 SCC 121
[2] (2013) 9 SCC 54

and if the deceased died in unmarried status, 50% thereof ought to be deducted towards his personal expenses, and the remainder Rs.18,000/- per annum would be the contribution to family. Hence, taking Rs.18,000/- per annum as contribution of the deceased to the family, by applying multiplier '18', since the deceased was 25 years old on the date of accident and in view of the decisions of the Honourable Supreme Court in **Amrit Bhanu Shali and others v. National Insurance Company Limited and others**[3] and **Munna Lal Jain and another v. Vipin Kumar Sharma and others**[4], when computed, the loss of dependency works out to Rs.3,24,000/-. Thus, appellant Nos.1 and 2 are entitled to Rs.3,24,000/- towards loss of dependency. This apart, the amount of Rs.5,000/- granted towards funeral expenses by the Tribunal is maintained. Thus, appellant Nos.1 and 2 are entitled to a total sum of Rs.3,29,000/- as compensation.

7. It is no doubt true, the amount determined exceeds the claim of Rs.3,00,000/- made by the appellants, but in view of the law declared by the Honourable Supreme Court in **Nagappa v. Gurudayal Singh and others**[5]**, Sri Laxman @ Laxman Mourya v. Divisional Manager, Oriental Insurance Company Limited**[6] and **Rajesh's case (supra 2),** when just and fair compensation is arrived at exceeding the claim, there cannot be any prohibition to grant the said amount.

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[3] 2012 AIR (SCW) 3901
[4] (2015) 6 SCC 347
[5] AIR 2003 SC 674
[6] **2012 ACJ 191 (SC)**

8. The Tribunal has granted interest at 9% per annum. The same is maintained on the amount of Rs.1,35,000/- granted by the Tribunal and on the enhanced amount, interest at 7.5% per annum is granted, in view of the decision of the Honourable Supreme Court in **Rajesh's case (supra 2)**.

9. The enhanced amount of Rs.1,94,000/- shall be apportioned among appellant Nos.1 and 2 in the same proportion in which the original compensation amount was directed to be apportioned and disbursed by the Tribunal. Appellant Nos.1 and 2 are directed to pay Court fee on an amount of Rs.29,000/- within three months from today.

10. Accordingly, the appeal is allowed enhancing the compensation from Rs.1,35,000/- to Rs.3,29,000/- with interest at 9% per annum on the amount of Rs.1,35,000/- awarded by the Tribunal and at 7.5% per annum on the enhanced amount. Miscellaneous Petitions, if any, pending in this appeal, shall stand closed. There shall be no order as to costs.

A. SHANKAR NARAYANA, J

August 23, 2016.
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