

THE HON'BLE SMT JUSTICE ANIS

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MACMA.NO.2323 OF 2005

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JUDGMENT:

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This appeal is filed by the appellants/petitioners under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act') aggrieved by the award, dt.20.03.2001 passed by the Motor Accidents Claims Tribunal-cum-Chief Judge, City Civil Court, Hyderabad in O.P.No.951 of 1998, awarding compensation of Rs.1,20,000.

The appellants herein are the parents of the deceased P.Sada Mohan (herein after referred to as 'the deceased').

They filed the above said O.P.No.951 of 1998 under Section 166 of the Act, claiming compensation of Rs.3,00,000/- for the death of the deceased in a motor vehicle accident that occurred on 13.05.1998.

For the sake of convenience, the parties hereinafter will be referred to as they are arrayed in the said O.P.

The brief averments of the petition are that on 13.05.1998 at about 4.00 p.m., when the deceased was proceeding on his scooter bearing No.AP28G 5229 on the extreme left side of the road from his office at Kushaiguda to

Secunderabad and when he reached at R.K.Puram, one A.P.S.R.T.C. bus bearing No.AP 9Z driven in a rash and negligent manner dashed against the scooterist and as a result, the deceased sustained fatal injuries and died on the spot. According to the petitioners, the deceased died due to the rash and negligent driving of the driver of R.T.C. bus. It is also stated that the deceased was aged about 23 years at the time of accident and drawing salary of Rs.5,000/- per month and he used to maintain the petitioners and contribute the entire amount to the family. Hence, the petitioners claimed compensation at Rs.3,00,000/-.

The respondent-Corporation filed counter affidavit denying the manner of accident and stated that at the time of accident, the deceased was proceeding in the same direction and when the deceased attempted to overtake the bus from right side and applied sudden breaks and as there was another bus proceeding on his opposite direction, he fell down and sustained injuries. It is also stated that the accident was due to the rash and negligent driving of the scooterist and the compensation claimed by the petitioners is high, excessive and exorbitant and prayed to dismiss the petition.

Basing on the pleadings, the Tribunal framed three

issues and to substantiate the claim, the appellants/petitioners got examined PWs.1 to 3 and got marked Exs.A-1 to A-8 on their behalf. On behalf of the contesting respondents, RWs.1 to 3 were examined and Ex.B-1 was marked.

The Tribunal having considered the oral and documentary evidence on record and relying on the evidence of PWs.1 and 2, coupled with Exs.A-1 to A-4, came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the R.T.C. bus and awarded compensation of Rs.1,20,000/-. Being not satisfied with the compensation awarded by the Tribunal, the parents of the deceased filed the present appeal.

The learned counsel appearing for the appellants argued that the Tribunal while considering the income of the deceased, the court below did not consider his income by way of tuitions and further relied on the decision of the Supreme Court reported in **RAMILABEN CHINUBHAI PARMAR AND OTHERS VS. NATIONAL INSURANCE CO. LTD., & OTHERS**^[1], showing the petitioners are also entitled to the conventional amount of Rs.50,000/- consisting of funeral and other expenses, etc., and finally prayed this court to enhance the compensation. The learned counsel for the appellants also

contended that during the pendency of the appeal, the first appellant died and filed the death certificate and second appellant is the sole legal heir of the deceased first appellant.

On the other hand, the learned counsel for the respondents argued that in view of the judgment of the Hon'ble Supreme Court in **SARALA VERMA VS. DELHI TRANSPORT CORPORATION**^[2] half of the income of the deceased should be deducted towards personal expenses and further argued that the rate of interest granted by the Tribunal is high and excessive and it should be reduced as per the judgments of the Hon'ble Supreme Court.

Having regard to the submissions made by the learned counsel appearing for both the parties, the points which are to be decided in the appeal are as follows:

- 1) Whether the compensation awarded by the Tribunal is just and reasonable?
- 2) Whether the appellants/petitioners are entitled for enhancement of compensation as prayed for?

POINTS: A perusal of the evidence on record shows that there is no dispute regarding the manner of accident and that the accident occurred due to the rash and negligent driving of the respondent bus bearing No.AP 9Z 9438 and the finding of the Tribunal in this regard needs no interference. Coming to

the quantum of compensation, the Tribunal rightly considered the evidence of PWs.1 to 8 and fixed the income of the deceased at Rs.2,100/- per month and also rightly considered the age of the deceased as 23 years at the time of accident. In view of the judgment of the Supreme Court in **Sarala Verma's** case (2 supra), the deceased was a bachelor leaving behind the appellants. Therefore, half of the income of the deceased should be deducted towards personal expenses. Thus, the contribution of the deceased to his family members comes to Rs.1,050/- per month. The annual loss comes to Rs.12,600/-. It is an admitted fact that the deceased was aged 23 years at the time of accident. The relevant multiplier is to be applied is 18. Thus, if multiplier 18 is applied, the total dependency comes to Rs.2,26,800/-.

As per the settled law of the Supreme Court in **RAMILABEN CHINUBHAI PARMAR's** case (1 supra), the appellants are entitled to Rs.50,000/- towards conventional amount. Thus, in total, the appellants are entitled to compensation at Rs.2,76,800/-. As far as the rate of interest is concerned, in view of the different rates of interest granted by the Hon'ble Supreme Court in the decisions reported in **SANOBANU NAZIRBHAI MIRZA AND OTHERS v.**

**AHMEDABAD MUNICIPAL TRANSPORT SERVICE^[3] and
REBEKA MINZ AND OTHERS v. DIVISIONAL MANAGER,
UNITED INDIA INSURANCE COMPANY LIMITED AND
ANOTHER^[4]**, I am of the view that interest at 7.5% p.a shall be
awarded on the enhanced amount from the date of appeal till
the date of realisation.

Thus, in view of the above discussion, the appeal is partly
allowed enhancing the compensation awarded by the Tribunal
to the appellant/petitioner from Rs.1,20,000/- to Rs.2,76,800/-
along with interest at 7.5% p.a on the enhanced amount from
the date of appeal till the date of realization and the second
respondent, who is the mother of the deceased is permitted to
withdraw the said amount as soon as the deposit is made. No
order as to costs.

Miscellaneous petition, if any, pending in this appeal shall
stand closed.

ANIS,

J

Dt.29.01.2016
TJS

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[\[1\]](#) 2014 ACJ 1430

[\[2\]](#) 2009 ALD (SC) 3- p.83

[\[3\]](#) 2013 ACJ 2733

[\[4\]](#) 2012 ACJ 2328