

HE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
&
THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

M.A.C.M.A.No.2975 of 2016

DATED:- 17.11.2016

Between:

Royal Sundaram Alliance Insurance Co.Ltd.,
Rep.by its Manager, Chennai

..... APPELLANT

AND

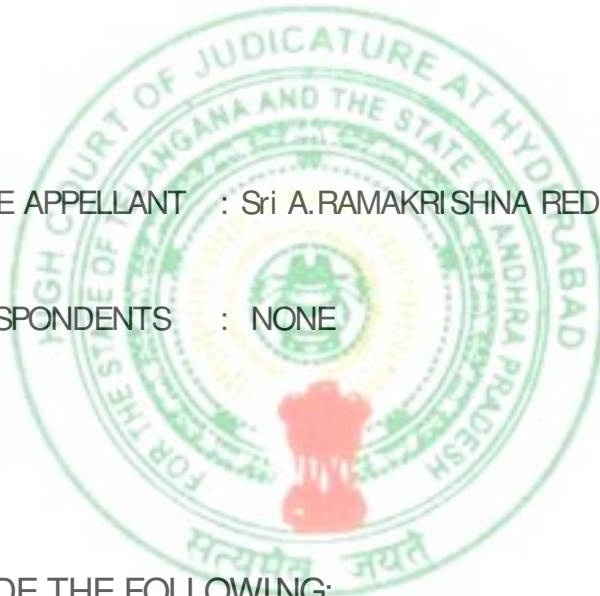
- 1) Venati Dhanunjaya Reddy
- 2) Venati Surekha
- 3) R.Inbasekaran

.....RESPONDENTS

COUNSEL FOR THE APPELLANT : Sri A.RAMAKRISHNA REDDY

COUNSEL FOR RESPONDENTS : NONE

THE COURT MADE THE FOLLOWING:



THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
&
THE HON'BLE SRI JUSTICE M.S.K.JAI SWAL

M.A.C.M.A.No.2975 of 2016

JUDGMENT: (per Hon'ble Sri Justice M.S.K.Jaiswal)

This MACMA is directed against the order of the learned Chairman, Motor Vehicles Accidents Claims Tribunal-cum-I Additional District Judge, Nellore, dated 16.06.2016, in M.V.O.P.No.568 of 2012, by and under which, the respondents were awarded a sum of Rs.32,75,000/- towards compensation for the death of their son Venati Bobby Vishal (hereinafter referred to as 'the deceased') in an accident that took place on 12.11.2011.

2. The facts are as under:-

The deceased was a final year student of MBBS Course at Sanathur, Meenakshi Medical College, Kanchipuram. He was aged about 22 years. On 12.11.2011 at about 08.35 a.m., he was proceeding as a pillion rider on a motorcycle bearing No.AP 20 S 8883 being driven by his friend. When they reached Chettiyarpettai on the National Highway from Vellore to Chennai, a Lorry/Tipper bearing No.TN 21 H 6697 being driven by the 3rd respondent herein (owner-cum-driver) and insured with the appellant came from behind in a rash and negligent manner and dashed against the motorcycle, due to which the deceased sustained grievous injuries and died on the spot.

3. It was pleaded by the claimants that for the education of the deceased in medicine course, the parents have already spent more than Rs.25 lakhs, that he will be paid Rs.20,000/- per month as stipend while he pursues his education as a House Surgeon and that after completing his education, he will be earning not less than Rs.1 lakh per month. That the deceased was a bright and intelligent student and due to the act of the 3rd respondent, the claimants are deprived of the love and affection of their son and also his future earnings. Hence, they claimed a compensation of Rs.50 lakhs.

4. Third respondent owner-cum-driver remained *ex parte*.

5. The appellant/Insurance Company filed counter contending that the driver of the insured vehicle was not having valid and effective driving licence, that the owner and insurer of the motorcycle are also necessary parties since the accident occurred due to the negligence of the person who was driving the motorcycle, and that the claim is exorbitant and excessive. Hence, the appellant/Insurance Company prayed for dismissal of the claim.

6. On the basis of the pleadings, the Tribunal framed the following issues:-

- 1) Whether the accident occurred due to the rash and negligent driving of the driver of the Lorry/Tipper bearing Reg.No.TN-21-H-6697?
- 2) Whether the claimants are entitled for compensation, if so, to what extent and amount?
- 3) To what relief?

7. In support of their contentions, the claimants examined P.Ws.1 to 3 and got Exs.A1 to A18 and X.1 to X.3 marked. On behalf of the appellant/Insurance Company, R.W.1 was examined and Ex.B.1 was marked.

8. Taking into consideration the evidence on record, the Tribunal granted the relief as stated supra. Aggrieved by the same, the Insurance Company preferred the present appeal reiterating the contentions raised by it before the Tribunal.

9. The point for consideration is as to whether the amount of compensation determined by the Tribunal is, in any way, excessive or exorbitant warranting interference?

10. The appellant is aggrieved by the quantum of compensation. The material facts are not disputed. Admittedly, the deceased was pursuing Final Year MBBS course and died in a road traffic accident involving the vehicle which was owned by the third respondent and insured with the appellant. According to the appellant, the Tribunal erred in taking the income of the deceased at

Rs.20,000/- per month and also erred in adding 50% towards his future prospects. The appellant further contended that the multiplier adopted by the Tribunal is also incorrect since the age of the deceased, who was an unmarried boy, was taken into consideration whereas it ought to have taken the age of his mother for applying the multiplier to the multiplicand.

11. We have perused the material on record. It is noticed from the Award that the learned Tribunal has followed the decisions of the Supreme Court on each and every aspect and determined the monthly income of the deceased at Rs.20,000/- per month and by adding 50% towards future earnings, quantified the monthly income at Rs.30,000/- and since the deceased was a bachelor, 50% thereof was deducted and the net loss to the family was determined at Rs.15,000/- p.m. Following the decision of the Supreme Court in SARLA VARMA AND OTHERS v. DELHI TRANSPORT CORPORATION AND ANOTHER¹ the Tribunal has taken '18' as the multiplier and determined the compensation after adding Rs.25,000/- towards funeral expenses, Rs.5,000/- towards loss of estate and Rs.5,000/- towards transportation charges.

12. In our opinion, since the deceased was a young boy, aged about 22 years, and was having bright future prospects as a medical practitioner, the amount determined by the Tribunal cannot at all be said to be, in any way, exorbitant or excessive. The Tribunal has correctly appreciated the evidence on record and quantified the compensation and therefore, we do not see any reason to interfere with the same.

13. It is submitted by the learned counsel for the appellant that the claimants have also preferred an appeal for enhancement of compensation and that the appellant/Insurance Company be given the liberty to raise all such contentions as are available to it in the appeal filed by the claimants.

¹ (2009) 6 SCC 121

14. In that view of the matter, the appeal is dismissed at the stage of admission, granting liberty to the appellant/Insurance Company to raise all the contentions as are available to it in law, in the appeal stated to have been filed by the claimants.

C.V.NAGARJUNA REDDY,J

M.S.K.JAI SWAL,J

Date: 17.11.2016
smr

