

**HON'BLE SRI JUSTICE T. AMARNATH GOUD**

MA.CMA.NO: 3 0 3 OF 2015

**J U D G M E N T :**

This appeal arising out of the award and decree dated 16/12/2014 passed in MVOP.No. 102 of 2014 by the Motor Accident Claims Tribunal-cum-I-Additional District Judge, Prakasam at Ongole, [for short “ *The Tribunal*”).

2. The appellant Nos. 1 and 2, who are the parents of the deceased, Uppu Venkata Raju filed this appeal, having dis-satisfied with the quantum of compensation awarded by the Tribunal on account of the death of their son in the accident.

3. The brief facts of the case are that on 26-04-2013 at about 01:30 p.m. at Bodhan cross-roads on Medak to Bodhan, Ramayampet Road , while the deceased and his friend were going to Medak town from Yella Reddy village of Medak district on a motor cycle bearing No. AP-9-AN/4097 and by the time they reached Bodhan cross-roads, the DCM van [lorry] bearing No. AP-28-Y-3790 being driven by its driver in a rash and negligent manner and hit the motor cycle, due to which the deceased, who was the pillion rider on the motor cycle fell down and sustained multiple injuries and died while undergoing treatment. The Station House Officer, Medak Town Police Station, registered a case in Crime No.99/2013 under section 337 and 304-A of IPC of Medak

Town Police Station against the driver of the aforesaid DCM van. After completion of investigation, the Sub-Inspector of Police, Medak Town Police Station laid charge sheet against the driver of DCM van. During the life-time the deceased, the deceased was getting an income of Rs.10,000/- per month and due to the sudden death of the deceased, the petitioners lost their earning male member and are leading miserable life and as the accident occurred due to the rash and negligent driving of the driver of DCM van, the petitioners filed a claim-petition under section 163-A and 168 of the Motor Vehicles Act, claiming compensation of Rs.6,00,000/- against the respondents.

4. Before the Tribunal, the first respondent/owner of the DCM van filed his counter denying the averments made in the claim-petition and denied that he drove the said van in a rash and negligent manner and that he got valid driving licence at the time of accident and the same was in force as on the date of accident. The claim-petition filed by the petitioners is not maintainable and prayed to dismiss the claim-petition against the first respondent.

5. The second respondent-United India Insurance Company Limited, Prakasam, also filed its counter before the Tribunal and denied the averments made in the claim-petition. The second respondent-Insurance Company averred in its counter that the driver of the offending van was not having valid driving licence at the time of accident and the petition filed by the petitioners against

the second respondent is not maintainable and prayed to dismiss the claim-petition.

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

- i) *Whether the deceased Uppu Venkata Raju died in a road accident which took place on 26-4-20213 at about 01-30 hours at Bodhan cross-roads on Medak to Bodhan, Ramayampeta road due to the rash and negligent driving of the DCM van [lorry] bearing No. AP-28-Y-3790 by its driver ?*
- ii) *Whether the driver of the DCM van [lorry] bearing No. AP-28-Y-3790 is having valid and effective driving licence at the time of accident ?*
- iii) *Whether the petitioners are entitled for compensation, if so, to what amount and against whom ?*
- iv) *To what relief, the petitioners are entitled ?*

6. To substantiate the claim, the appellants-claimants examined PW-1 and Exs.A-1 to A-9 were marked on their behalf. No oral evidence was let-in by the respondents but the second respondent filed copy of the Insurance Police and the same was marked as Ex.B-1.

7. On appreciation of oral and documentary evidence placed on record, the Tribunal answered all the above issues in favour of the appellants-claimants and against the respondents. In view of answering the issues 1 to 3 in favour of the appellants-petitioners and against the respondents 1 and 2, the Tribunal has awarded total compensation of Rs.2,20,000/- to the appellants-petitioners by taking into consideration the age of the petitioners-

claimants and applied the multiplier '7' and fixed the monthly income of the deceased at Rs.5,000/- and after deducting half of the income towards personal and living expenses of the deceased at Rs.2,500/- per month and arrived at Rs.30,000/- per annum and multiplied the annual income with the multiplicand '7', i.e.,  $30,000 \times 7 = 2,10,000/-$  and further awarded Rs.,10,000/- towards funeral expenses. Thus, in all the appellants-petitioners are entitled for compensation of Rs.2,20,000/- .

8. The petitioners-claimants 1 and 2, having dis-satisfied with the quantum of compensation awarded by the Tribunal, preferred this appeal raising various grounds in the memorandum of appeal.

9. Heard Sri Nuthalapati Krishna Murthy, learned counsel for the appellants and Smt. Manjula appearing for the second respondent-Insurance company.

10. Before the Tribunal, PW-1 Uppu Bala Nagamma, the mother of the deceased was examined and the oral evidence of PW-1 coupled with Exs.A-1/FIR in Cr.No.99/13 of Medak Town Police Station and Ex.A-5/Attested copy of charge sheet in Cr.No.99/13 of Medak Town Police Station goes to show that the deceased met with an accident on 26-4-2013 at about 01-30 p.m., while he was proceeding on a motor cycle as pillion rider and by the time when the motor cycle reached at Bodhan cross-road, the driver of the aforesaid offending DCM van drove it in a rash and

negligent manner and hit the motor cycle on which the deceased was travelling as pillion rider and died.

11. The learned counsel for the appellants contended that the compensation awarded by the Tribunal is very meager and in the light of the judgment in PRANAY SETI's case, he is entitled for future prospectus and also monthly income has to be taken into consideration as Rs.3,000/- per month as held by the Hon'ble Supreme Court in **NEW INDIA ASSURANCE COMPANY LIMITED V/s. KALPANA** <sup>1</sup>. Since the deceased is a bachelor, 50% has to be deducted towards his personal expenses and in view of Ex.A-1/FIR the age of the deceased as on the date of accident was 24 years old and the appropriate multiplier is '18'. When 50% is deducted towards personal expenses of the deceased, the monthly contribution to his family will come to Rs.1,500/- and the annual income of the deceased comes to Rs.18,000/-. If the annual income of Rs.18,000/- is multiplied with the multiplier '18', the total loss of dependency comes to Rs.3,24,000/-. Further the conventional charges for a sum of Rs.30,000=00 as decided by the Hon'ble Apex Court in **NATIONAL INSURANCE COMPANY LIMITED V/s. PRANAY SETHI** <sup>2</sup>, the other parts of the award needs no interference the appellants are also entitled to get an amount of Rs.30,000/- under conventional head, since the deceased was a

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<sup>1</sup> ) 2007 [3] SCC-538

<sup>2</sup> ) 2017 [16] S.C.C. 680

bachelor. Therefore, the total compensation is arrived at Rs.3,24,000/- + 30,000/- = Rs.3,54,000/-. The appellants are, therefore, entitled to get a total compensation of Rs.3,54,000/- together with interest @ 6% per annum from the date of filing of the claim-petition till its realization.

12. With the above modification, this appeal is partly allowed. No costs.

13. As a sequel, miscellaneous applications if any, pending in this appeal shall stand closed.

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*JUSTICE T. AMARNATH GOUD*

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[ R E S U L T :: APPEAL IS PARTLY ALLOWED ]

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