THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.Nos.3702 of 2005 & 2241 of 2017

COMMON JUDGMENT:-

Since the facts of the case, the issues involved, the parties to the *lis* in both these appeals are similar, both these appeals are being disposed of by this common judgment.

2. Challenging the order dated 14.09.2005 passed in O.P.No.625 of 2004 by the Motor Accident Claims Tribunal-cum-District Judge, Karimnagar ('the Tribunal', for brevity), the National Insurance Company Limited preferred M.A.C.M.A.No.3702 of 2005 seeking to set aside the impugned Award and the claimants preferred M.A.C.M.A.No.2241 of 2017 seeking enhancement of compensation.

3. Heard both sides and perused the record. The parties are hereinafter referred to, as arrayed before the Tribunal.

4. The learned counsel for the appellants in MACMA No.2241 of 2017 and the respondents 1 to 5 in MACMA No.3702 of 2005 (claimants) would contend that though there are five dependants on the deceased-B.Anandam who died in the subject accident occurred on 08.06.2004 due to rash and negligent driving of the driver of the lorry bearing registration No.AP-26-U-5589, the Tribunal deducted 1/3rd of the income of the deceased towards his personal expenditure. The Tribunal, though assessed the compensation payable to the claimants as Rs.8,91,460/-, granted only Rs.7,00,000/- as compensation. Relying on the decision of the Apex Court in National Insurance Co. Ltd., Vs. Pranay Sethi and

others[1], the learned counsel for the claimants contended that the Tribunal did not award any compensation towards future prospects of the deceased and ultimately prayed to enhance the compensation.

5. On the other hand, the learned Standing Counsel for the National Insurance Company Limited representing the appellant in MACMA No.3702 of 2005 and the 3rd respondent in MACMA No.2241 of 2017 would contend that the claimants claimed a total compensation of Rs.7,00,000/- and the Tribunal granted total claim with interest @ 9% per annum from the date of petition till realisation, which is excessive. The Tribunal adopted wrong multiplier in assessing the compensation payable towards loss of dependency and granted excess compensation and ultimately prayed to set aside the order under challenge.

6. In view of the above rival contentions, the points that arise for consideration in these appeals are as follows:-

1. Whether the compensation of Rs.7,00,000/- with interest @ 9% per annum from the date of petition till realisation granted by the Tribunal in favour of the claimants is liable to be confirmed/set aside?

2. Whether the claimants are entitled for enhancement of compensation?

7. It is not in dispute that the deceased-B.Anandam suffered fatal injuries in the subject accident occurred on 08.06.2004 and succumbed to the same, due to rash and negligent driving of the driver of the lorry bearing registration No.AP-26-U-5589. As per the evidence on record, the deceased was 26 years old as on the date of the subject accident. He was working as Attender in Grampanchayat Office, Peddapalli, and was drawing a salary of Rs.4,100/- per month. His salary certificate is marked as Ex.A.7. As per the evidence on

[1] 2017 (6) ALD 170 (SC)

record, there are five dependants on the deceased. The Tribunal, by taking the monthly income of the deceased as Rs.4,100/-, his age as 26 years and his date of retirement from Government service as 31.08.2030, assessed the total loss of dependency as Rs.12,90,689/- (Rs.4,100/- multiplied by the number of months of left over service of the deceased), deducted 1/3rd of the same towards personal expenses of the deceased and assessed the compensation payable to the claimants towards loss of earnings as Rs.8,60,460/-. The Tribunal further stated that Rs.15,000/- is payable towards loss of consortium, Rs. 15,000/- towards loss of love and affection, Rs.500/- towards funeral charges and Rs.500/- towards transportation charges. In all, the Tribunal assessed the compensation payable to the claimants as Rs.8,91,460/-, but restricted the compensation to Rs.7,00,000/-, as claimed by the claimants.

8. When the claimants themselves calculated and claimed total compensation of Rs.7.00 lakhs, assessing the compensation at Rs.8,91,460/- and awarding the compensation at Rs.7.00 lakhs as claimed, by the Tribunal, cannot be faulted. No doubt, in the decision in Pranay Sethi's case supra, the Apex Court had granted compensation of Rs.70,000/- towards conventional heads. When the compensation claimed by the claimants is Rs.7.00 lakhs and the award is also for Rs.7.00 lakhs, there cannot be any hike without there being any pleading. In the given circumstances, it is not appropriate to rely on the decision of the Apex Court in Pranay Sethi's case supra and enhance the compensation. Further, in the circumstances, granting interest @ 9% per annum also cannot be faulted. There is no infirmity in the impugned order of the Tribunal. Both the appeals are devoid of merit and are liable to be dismissed.

9. In the result, both the appeals are dismissed, confirming the order under challenge in both these appeals. No costs.

Miscellaneous petitions, if any, pending in both these appeals, stand closed.

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Dr. SHAMEEM AKTHER, J

26th September, 2018
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