THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

M.A.C.M.A.NO.3936 OF 2009

JUDGMENT:

This appeal arises out of the order, dated 25.03.2008 in O.P.No.206 of 2005 on the file of the Chairman, Motor Accident Claims Tribunal-cum-III Additional District Judge, (F.T.C.), Mahabubnagar at Gadwal.

2. The appellants are the claimants, who have filed the claim petition under Section 166 of the M.V. Act against the respondents 1 and 2, owner and insurer of the crime vehicle, claiming compensation of Rs.5,00,000/- on account of the death of U.Anjaneyulu, in a motor vehicle accident that occurred on 15.12.2004.

3. Heard the arguments of Mr.K.Venkatesh Gupta, learned counsel for the appellants and Mr.V.Krishna Rao, learned standing counsel for the Insurance Company (2nd respondent).

4. There is no dispute with regard to the facts of the case. This is a case of death, wherein the claimants have filed claim petition before the Tribunal and the Tribunal awarded compensation of Rs.2,34,000/- with interest at 7.5% p.a., against the respondents 1 and 2 holding them jointly and severally liable to pay compensation. The appellants, being the claimants having dissatisfied with the quantum of compensation, preferred this appeal.

5. The point for consideration in this appeal is whether the compensation awarded by the Tribunal is not just and reasonable and whether it requires to be enhanced?

6. Learned counsel for the appellants submits that the Tribunal has not taken the correct income of the deceased. The deceased was working as weigh man in the agricultural market and he was earning Rs.200/- per day and therefore, his income has to be taken into consideration as Rs.6,000/- per month.

7. On the other hand, learned standing counsel for the 2nd respondent submits that the deceased works only once in a week and therefore, his income cannot be taken into consideration for 30 days.

8. In this regard, neither the appellants nor the 2nd respondent filed any proof of the income of the deceased that the deceased working in agricultural market as a daily wage labourer. There is no material on record. The Tribunal has taken income of the deceased as Rs.1800/- per month and assessed the loss of dependency. In fact, the income of the deceased can be taken into consideration as Rs.3,000/- per month since there is no proof of income. Taking into consideration the notional income of the deceased at the rate of Rs.3,000/- per month, his annual income would be Rs.36,000/-.

9. Learned counsel for the appellants also disputed the deduction of 1/3rd from the annual income of the deceased contending that the deceased has four family dependants and 1/4th has to be deducted towards his personal expenses as per the judgment rendered in **SARALA VERMA (SMT) AND OTHERS V DELHI TRANSPORT CORPORATION**[1]. There is no dispute with regard to the submissions made by the leaned counsel for the appellants. Therefore, 1/4th has to be deducted from the annual income of Rs.36,000/- of the

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[1] (2009) 2 SCC (CRI) 1002

deceased, which comes to Rs.27,000/-. The Tribunal has also not awarded future prospects may be due to the reason that the judgment of **NATIONAL INSURANCE COMPANY LTD., V PRANAY SETHI AND OTHERS** [2] was not available in those days as it is rendered subsequent to the accident. In view of the judgment of *Pranay Sethi* (cited supra) the appellants are entitled for future prospects of the deceased at 25% of the income of the deceased, which comes to Rs.6750/- (Rs.27,000/- X 25%). If future prospects added to income of the deceased, it comes to Rs.33,750/- (Rs.27,000/-+ 6,750/-) Since the deceased was aged about 40 years, the proper multiplier applicable is '15'. If the income of the deceased is multiplied by multiplier '15', it comes to Rs.5,06,250/- (Rs.33,750/- X15).

10. Learned counsel for the appellants also brought to the notice of this Court that the Tribunal has awarded less amount towards conventional charges and it has to be enhanced.

11. The Tribunal has awarded Rs.24,000/- towards conventional charges, which includes consortium, funeral expenses and loss of estate. In *Pranay Sethi* case (cited supra), it was held thus:

> "Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs.15,000/-, Rs.40,000/- and Rs.15,000/- respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years".

12. In view of the above judgment, the claimants are entitled for a sum of Rs.70,000/- towards conventional charges. Therefore, the amount of Rs.24,000/- is enhanced to Rs.70,000/-. In all, the appellants-claimants are entitled to compensation of Rs.5,76,250/-.

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[2] 2017(3) G.L.H. 536

13. In view of my foregoing discussion, the compensation awarded by the Tribunal is enhanced from Rs.2,34,000/- to Rs.5,76,250/-.

14. In the result, the appeal is allowed enhancing the compensation from Rs.2,34,000/- to Rs.5,76,250/- with interest at the rate of 7.5% p.a., from the date of the petition till the date of realization. The respondents are directed to deposit the amount within 8 weeks from the date of receipt of a copy of this judgment. The appellants-claimants are directed to pay deficit Court fee before the Tribunal on the excess amount awarded over and above the claim of Rs.5,00,000/-. On deposit of the enhanced compensation amount, the appellants-claimants are permitted to withdraw the same. Miscellaneous petitions, if any, pending in this appeal shall stand closed.

GUDISEVA SHYAM PRASAD, J

DATED: 05-10-2018
Hsd