THE HON'BLE MS JUSTICE J.UMA DEVI

M.A.C.M.A No.60 of 2010

JUDGMENT:

The appellants who are claimants Nos.1 & 2 filed this appeal against the Award and Decree, dated 25.07.2009, passed in O.P.No.1735 of 2007, by the Chairman, Motor Accident Claims Tribunal-cum-II Additional Chief Judge, City Civil Courts, Hyderabad (for short "the Tribunal), granting Rs.3,22,000/- against the claim of Rs.10,00,000/- for the death of their son P.Ramreddy in a motor accident that occurred on 09.10.2007.

Heard both sides and perused the record.

The Tribunal seems to have dismissed the claim petition as against 3rd claimant, who is the younger brother of the deceased. During the pendency of the appeal, the 1st appellant-P.Venkat Reddy, the father of the deceased, died. The 2nd appellant-Smt.P.Radhamma, the mother of the deceased, is declared as only legal representative of the 1st appellant, vide orders, dated 05.12.2018, in I.A.No.1 of 2018.

The main grievance of the appellant is that the compensation amount of Rs.3,22,000/-, awarded by the Tribunal, in respect of death of her son Ramreddy, is wholly unreasonable and inadequate. As per her contention, her deceased son was earning Rs.9,000/- per month by selling rose flowers in Mojamjahi market at Hyderabad. Her deceased son, apart from selling rose flowers in Mojamjahi market, was doing milk business and whatever income he earned through flower business and milk business, was being contributed for maintenance of his parents and other members. The contention of the appellant is that the compensation awarded to her under the head of loss of income contribution of the deceased to his family is very meager and low. According to her, the Tribunal ought to have taken the income of the deceased at least at Rs.4,500/- per month for computing of compensation. It is also her contention that the amount of Rs.10,000/- awarded under the head of funeral expenses and loss of estate is also very meager and low.

As the appeal is filed by the appellant disputing the quantum of compensation awarded by the Tribunal, the only question to be answered is *whether the compensation awarded to the claimants in respect of the death of the deceased Ramreddy is fair and reasonable*?

I have gone through the award impugned in the present appeal and also the evidence on record. The Tribunal, after considering the evidence of PW 2, who deposed about the manner in which the accident took place, had given a finding that the death of the deceased took place due to the negligent driving of the crime vehicle by its driver. There is no much controversy as to the conducting of flower business and milk business by the deceased. PW 3 was examined by the claimants in proof of milk business conducted by the deceased. Though no exact evidence is produced in proof of the income earned by the deceased through milk vending business and flower business, as the deceased was aged 25 years and is hale and healthy by the time of accident, in the absence of any contrary evidence with regard to the income of the deceased, the income of the deceased could be assessed as Rs.4,500/- per month. The deceased being an unmarried person the deduction towards personal and living expenses to the extent of 1/3rd as was done by the tribunal, appears to be incorrect. The deceased was aged about 25 years as on the date of his death, as per the evidence of PW 1 and as per Exs.A2 and A3 Inquest Report and Postmortem certificate of the deceased. Half of the income has to be deducted towards personal expenses as the deceased was an unmarried person. The Tribunal also has not granted reasonable compensation under the conventional heads, such as funeral expenditure and loss of estate.

The Tribunal has applied multiplier '13' instead of '18'. As per the decision of the Hon'ble Supreme Court in *Sarla Verma and others v. Delhi Transport Corporation and another*[1] the multiplier to be applied is '18' for the people in the age group of 20-25 years.

In view of the above, this court is of the opinion that it is just and proper to enhance the compensation amount under the head of loss of income contribution of the deceased to his family.

Rs.4,500/- x 12 x 18	=	Rs.9,72,000/-
(-) 50%	=	Rs.4,86,000/-

		Rs.4,86,000/-
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Therefore, the appellant is entitled to a sum of Rs.4,86,000/- towards loss of dependency.

In addition to the above, the appellants being the mother and father of the deceased they are also entitled to a sum of Rs.10,000/- towards loss of love and affection, Rs.10,000/- towards loss of estate and another Rs.10,000/- towards funeral expenditure, as per the judgment of the Hon'ble Supreme Court in *National Insurance Co.Ltd. v. Pranay Sethi and others*[2]. The total compensation which the appellant entitled to get comes to Rs.5,16,000/-. As the 1st appellant, the father of the deceased died during the pendency of the appeal, the 2nd appellant, the mother of the deceased alone is entitled to get the entire compensation.

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[1] (2009) 6 SCC 121
[2] 2017 (6) ALD 170 (SC)

In the result, the MACMA is allowed in part, enhancing the compensation from Rs.3,22,000/- to Rs.5,16,000/- and the same is payable to the 2nd appellant by respondents No.1 and 2 jointly and severally together with proportionate costs and interest at 7.5% per annum from the date of petition till the date of realization. Respondents Nos.1 and 2 are directed to deposit the compensation amount as directed above within a period of two months from the date of receipt of a copy of this judgment. The 2nd appellant is entitled to withdraw the entire amount, as and when deposited, without furnishing any security.

Pending miscellaneous applications, if any, shall stand closed in consequence.

J.UMA DEVI,J

Date: 19.12.2018
Dsr