THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.Nos.264 OF 2014 AND 2156 OF 2014

COMMON JUDGMENT:

M.A.C.M.A.No.264 of 2014 is filed by the appellant/claimant and M.A.C.M.A.No.2156 of 2014 is filed by the insurance company/4th respondent, challenging the judgment dated 8.12.2009 passed in O.P.No.585 of 2007, by the Motor Accident Claims Tribunal-cum-I Additional District Judge, Adilabad (for short, the Tribunal).

2. Since both the appeals arise out of a common accident, they are being disposed of by this common judgment.

3. The brief facts of the case are that on 26.09.2007, one Partha Ramesh (hereinafter referred to as the deceased), along with others, was traveling in an auto bearing No.AP01 2274 from Khanapur to Adilabad, and when the said auto reached Boregaon bus stage at about 11.30 hours, a lorry bearing No.CG04JA 7755 came in the opposite direction with high speed and dashed the said auto, as a result of which, the deceased died on the spot. The claimant filed the above O.P., seeking compensation of Rs.3,00,000/- for the death of the deceased.

4. Respondent Nos.1 and 2 are the owner and insurer of the said lorry, while respondent Nos.3 and 4 are the owner and insurer of the said auto.

5. Respondent Nos.1 and 3 remained ex parte. Respondent Nos.2 and 4 filed their separate counters denying the allegations in the claim petition and it is contended on behalf of the second

respondent that the driver of the auto was carrying more passengers than its capacity and was proceeding without any valid permit and therefore, they are not liable to pay any compensation.

5. After considering the evidence produced by the parties, the Tribunal held that the accident was occurred due to the rash and negligent driving of the drivers of both the vehicles and granted compensation of Rs.1,68,000/- as against the claim of Rs.3,00,000/- and shared the liability at 50% each and accordingly directed respondent Nos.1 to 4 to pay the compensation jointly and severally.

6. Heard.

7. Sri T.Mahender Rao, learned standing counsel appearing for the insurer of the auto, submits that though the Tribunal held that the accident occurred due to the negligence of drivers of both the vehicles and shared the liability at 50% each, it has not fixed individual liability of the respondents specifically.

8. Sri Gurunam Singh, learned counsel representing Sri S.Surender Reddy, learned counsel for the appellant, contended that as against the claim of Rs.4,000/- for the loss of income of the deceased, the Tribunal has granted a meager amount of Rs.2,000/- per month.

9. Sri Dilip Kumar, learned Counsel representing Mr.S.A.V.Ratnam, appearing for respondent No.2 United Insurance Company, contended that the Tribunal ought to have

deducted 50% towards personal expenses as the deceased is an unmarried bachelor.

10. In the light of the above arguments, this Court feels it just and proper to fix the monthly income of the deceased at Rs.3,000/-, which comes to Rs.36,000/- per annum. After deducting 50%, as the deceased was a bachelor, the annual income comes to Rs.18,000/- and the appropriate multiplier is 13. If calculated, the compensation under the head loss of dependency, comes to Rs.2,34,000/-. Regarding other conventional charges, this Court is inclined to grant Rs.30,000/- by following the judgment of the Apex Court in **National Insurance Co. Ltd. V. Pranay Sethi[1].**

11. Insofar as the fixation of liability of 50:50 ratio is concerned, the award amount shall be equally shared by both the insurance companies. Except the above modifications, the other part of the judgment of the Tribunal remains unchanged.

12. Accordingly, both the Motor Accident Civil Miscellaneous Appeals are allowed in part, as indicated above. Miscellaneous petitions pending if any shall stand closed. No order as to costs.

T.AMARNATH GOUD, J

Date: 30-11-2018
Shr

[1] 2017 ACJ 2700 (SC