THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.186 OF 2014

JUDGMENT:

This appeal is arising out of the Order and Decree dated 21.11.2008 passed in M.V.O.P.No.191 of 2007 by the Motor Vehicles Accidents Claims Tribunal-cum-X Additional District & Sessions Judge (FTC) of Guntur at Narasaraopet (for short, the Tribunal)

2. The appellant Nos.1 to 3, who are father, mother and sister of the deceased-Kaluva Srinivasa Rao, respectively, filed this appeal, having dissatisfied with the quantum of compensation awarded by the Tribunal on account of the death of the deceased in the motor vehicle accident.

3. The brief facts of the case are that on 07.12.2006, while the deceased was traveling in an auto of the first respondent on his business work, at about 5.30 am., when the auto reached Tripurapuram, a lorry bearing No.AP9Y 36 came in opposite direction in rash and negligent manner and dashed the auto. In the said accident, the deceased sustained grievous injuries and died on the spot. The claimants filed the claim petition claiming compensation of Rs.4,00,000/- against respondents 1 to 4, the owner of auto, insurer of auto, owner of lorry and insurer of lorry, respectively.

3. Before the Tribunal, respondent No.1 remained *ex parte*. Respondent Nos.2 and 4 filed their separate written statements denying the averments of the claim petition and prayed to dismiss the claim petition.

4. After considering the evidence produced by the parties, the Tribunal granted a total sum of Rs.1,54,500/- i.e., Rs.1,50,000/- towards loss of dependency, Rs.2,000/- towards funeral expenses and Rs.2,500/- towards loss of estate.

5. Heard.

6. Before the Tribunal, P.W.3 deposed that the deceased was working as a Branch Manager of Andhra Jyothi, Guntur and was earning Rs.5,600/- per month. He also issued Ex.A.5 certificate to that effect. The Tribunal did not consider the same and taken Rs.15,000/- per annum as the income of the deceased. In the light of the evidence of P.W.3, this Court is inclined to take the income of the deceased as Rs.5,600/- per month, which comes to Rs.67,200/- per year. After deducting 50% towards his personal expenses, as he was a bachelor, the annual income would be Rs.33,600/- per year. The multiplier for the age of the deceased is '18' as per the ratio laid down by the Hon'ble Supreme Court in **Smt.Sarala Varma v Delhi Transport Corporation[1].** Hence, the compensation comes to Rs.6,04,800/- (Rs.33,600/- X 18). Regarding the other conventional heads, in the light of the judgment of the Apex Court

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[1] 2009(6) SCC 121

in **National Insurance Co. Ltd. Vs. Pranay Sethi[2],** the appellants are entitled to Rs.30,000/-. The total compensation the appellants are entitled is Rs.6,34,800/-.

7. In the result, the Motor Accident Civil Miscellaneous Appeal is allowed. The compensation awarded by the Tribunal of Rs.1,54,500/- is enhanced to Rs.6,34,800/- with proportionate costs and interest @ 7.5% per annum from the date of petition till realization. Respondent Nos.2 and 4 are directed to deposit the enhanced amount along with proportionate costs and interest within two months from the date of receipt of a copy of this order. On such deposit, the appellants are permitted to withdraw the entire amount in the proportions, as fixed by the Tribunal. The enhanced amount shall be paid to the appellants on payment of deficit Court fee as they paid Court fee claiming an amount of Rs.4,00,000/-. Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 23.12.2018
TJMR

[2] 2017(6) ALD 170 (SC)