

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

AND

HON' BLE SMT. JUSTICE T. RAJANI

M.A.C.M.A.No. 4722 of 2008

JUDGMENT : (per Hon' ble Sri Justice C.Praveen Kumar)

- 1) Not being satisfied with the quantum of compensation awarded in the order, dated 10.10.2007, passed in M.V.O.P.No.552 of 2005 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-IV Additional District Judge, Tirupati, the claimants preferred the present appeal under Section 173 of the Motor Vehicles Act, 1988 (for short "the Act"), seeking enhancement of compensation.
- 2) For the sake of convenience, the parties will hereinafter be referred to as arrayed in M.V.O.P.
- 3) The facts in issue are as under:

The claimants, who are the parents of one K.Srikanth, filed a claim petition under Section 166 of the Act, claiming compensation of Rs.50,00,000/- for the death of one K.Srikanth in a road accident that took place on 12.06.2005. It is stated that on the fateful day at about 10.15 a.m., the deceased along with the 1st respondent, was returning to Tirupati from his native village Seekayapatteda, in a Car bearing No.AP 03 L 4757. When the said car reached near

Kasim Kalva turning on the Pachikapalam road, the 1st respondent drove the same in a rash and negligent manner, as a result of which the said Car turned turtle and the deceased was crushed under the village. The villagers shifted the deceased to SVRR GG Hospital, Tirupati, where he was declared as dead. In respect of the above incident a case in Crime No.12 of 2005 of Ramachandrapuram Police Station came to be registered against the 1st respondent, the driver of the Car. It was stated that the deceased was aged about 21 years as on the date of the accident and was completed his graduation in Bachelor of Engineering. Due to sudden death of the deceased, the claimants lost their only source of income and suffered lot of mental agony. Since the accident took place due to the rash and negligent driving of the 1st respondent and as the vehicle was owned by the 2nd respondent and insured with the 3rd respondent, an application was filed against all the respondents making them jointly and severally liable to pay compensation.

4) The 1st respondent filed counter contending that the vehicle was insured with the 3rd respondent as such, the 3rd respondent alone is liable to pay the compensation. The 2nd respondent adopted the counter filed by the 1st respondent.

5) The third respondent filed counter denying the manner in which the accident took place. They also denied the age, future income and qualification of the deceased. In any event it is stated that the claim made is excessive and exorbitant.

6) Basing on the above pleadings, the Tribunal framed the following issues:

1. Whether the accident had occurred on account of rash and negligence on the part of the driver of the crime vehicle lorry bearing registration number AP 28 T 7374?
2. Whether the petitioners are entitled to any compensation, if so, to what amount and from which respondent?
3. To what relief?

7) In support of their case, the claimants examined PWs. 1 to 3 and got marked Exs. A1 to A10. No oral or documentary evidence has been adduced on behalf of the respondents.

8) After analyzing the oral and documentary evidence available on record, the Tribunal while holding that the accident took place due to the rash and negligent driving of the 1st respondent, awarded a sum of Rs.2,25,000/- as compensation with interest. Challenging the quantum of compensation awarded, the present appeal is filed.

9) The finding of the Tribunal with regard to the manner in which the accident took place has become final as the same is not challenged either by the insurance company or owner of the vehicle.

10) The only point that arises for consideration is *whether the compensation awarded by the Tribunal is just and reasonable.*

11) The learned counsel for the appellants mainly contended that the Tribunal erred in awarding an amount of Rs.2,15,000/- towards loss of dependency without quantify the amount in accordance with law. He further submits that the future prospects of the deceased were also not taken into consideration while calculating the loss of dependency.

12) The learned counsel for the insurance company would submit that the deceased was a bachelor; not having any avocation and not earning any amount and hence the Tribunal was right in awarding lumpsum amount towards loss of dependency, which warrants no interference.

13) The evidence of PW.1 would show that the deceased was an Engineering graduate in Computer Science. To prove the same, the provisional certificate (Ex.A7) of the deceased was filed, which shows that the deceased completed his B.Tech., course in first class in the year 2005. A perusal of

the material on record would also show that the deceased wrote engineering exams in the month of April, 2005 and died on 12.06.2005 in the road accident. It is to be noted that there was not much of time gap between the time of completing the engineering course and the time of death. Therefore, it cannot be said that the deceased had no income or incapable of earning any money.

14) Admittedly, the deceased was an engineering graduate as on the date of accident. A Division Bench of this Court in *B.Ramulamma v. Venkatesh Bus Union, Lingarajapuram, Bangalore* and another¹ fixed the minimum income of an Engineering Graduate at Rs.12,000/- per month. Having regard to the judgment referred to above and taking into consideration the educational qualification of the deceased at the time of the accident, we feel that the income of the deceased can be fixed at Rs.12,000/- per month. The deceased was a bachelor at the time of the accident. The Apex Court in *National Insurance Co. Ltd., vs. Pranaysethi and others*² held that “the age of the deceased should be the criteria for selecting the appropriate multiplier”. As per the 10th class certificate, the deceased was aged about 21 years at the time of the accident. In view of the judgment of the Apex Court in *Sarla Verma v. Delhi Transport*

¹ 2009(6) ALD 684 (DB)

² (2017) ACJ 2700

*Corporation*³, the suitable multiplier would be '18'. After deducting 50% of the amount towards his personal and living expenses as the deceased was a bachelor at the time of incident, the contribution of the deceased to the family would be Rs.6,000/- per month. Applying multiplier '18' the total loss of dependency would be Rs.6,000/- x 12 x 18 = Rs.12,96,000/-. In view of the Judgment of the Apex Court in Pranaysethi case (2 supra) the appellants are also entitled to a sum of Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses. Thus, in all the appellants are entitled to Rs.13,26,000/-.

15) For the aforesaid reasons, the appeal is allowed by enhancing the compensation from Rs.2,25,000/- to Rs.13,26,000/-. The enhanced amount will carry an interest at 7.5% p.a. from the date of petition till the date of realization. The enhanced amount shall be apportioned in the manner directed by the Tribunal. There shall be no order as to costs. Miscellaneous petitions pending in this appeal, if any, shall stand closed.

C. PRAVEEN KUMAR, J

T. RAJANI, J

05.07.2018
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³ (2009) 6 SCC 121

