

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.3765 OF 2014

JUDGMENT:

This appeal is arising out of the Award and Decree dated 14.08.2014 passed in M.V.O.P.No.1185 of 2012 by the Motor Accident Claims Tribunal-cum-Chief Judge, City Civil Court, Hyderabad (for short, the Tribunal)

2. The appellant Nos.1 to 3, who are husband, daughter and son of the deceased-N.Anitha, respectively, filed this appeal, having dissatisfied with the quantum of compensation awarded by the Tribunal on account of the death of the deceased in a motor vehicle accident.

3. The brief facts of the case are that on 11.05.2008 at about 19.30 hours, the deceased, as a pillion driver, was proceeding with petitioner Nos.1 and 3 from Kukatpally to Chanda Nagar to attend a function and when they reached opposite to Mythri Nagar Kaman on N.H.No.9 road, a lorry bearing No.AP22W 7624 came in a rash and negligent manner with high speed and dashed the motorcycle from its behind, as a result of which, the deceased fell on the road and the lorry ran over her. In the said accident, the deceased died on the spot. The claimants filed the claim petition seeking compensation of Rs.33,00,000/- against respondent Nos. 1 and 2, the owner and insurer of the lorry, respectively.

4. Before the Tribunal, respondent No.1 remained *ex parte*. Respondent No.2 filed its written statement denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

5. After considering the evidence produced by the parties, the Tribunal granted a total sum of Rs.16,57,000/- i.e., Rs.16,32,000/- towards loss of dependency, Rs.10,000/- towards funeral expenses and Rs.10,000/- towards loss of estate.

6. Sri Paturu Madhusudana Kumar, learned counsel for the appellants, submitted that the deceased was possessing Masters Degree in Commerce, that she worked as an Accounts Executive in Vivimed Labs Limited for four years and that she was working as an Accountant in NCL Altek and Seccollor Limited, Hyderabad, on the date of accident. He further submitted that though the Tribunal took into consideration Ex.A.9-service certificate, issued by Vivimed Labs Limited stating that the deceased worked for four years and Ex.A.10-salary certificate, issued by NCL Altek and Seccollor Limited, Hyderabad, to show that the deceased has worked as an Accountant from 05.05.2008 to 09.05.2008 on a monthly salary of Rs.12,753/-, it did not grant addition of 50% towards future prospects as per the ratio laid down by the Hon'ble Supreme Court in **Smt.Sarla Varma v Delhi Transport**

Corporation¹. He sought to enhance the compensation in that regard.

7. Sri Srinivas, learned counsel representing Smt.A.Malathi, learned Standing Counsel for the second respondent-insurance company, contended that as the deceased worked for only five days she cannot be treated as a permanent employee and hence she is not entitled to future prospects and sought to dismiss the appeal.

8. A perusal of Ex.A.9 and Ex.A.10, it is clear that the deceased continuously worked for four years in Vivimed Labs Limited and immediately she joined in NCL Altek and Seccollor Limited, Hyderabad, on a higher salary, and was working as Accountant by the date of accident. In the circumstances, it cannot be said that the deceased was not a permanent employee. Hence, the claimants are entitled to addition of 50% towards future prospects. Therefore, this Court is inclined to take the income of the deceased at Rs.18,000/- per month (Rs.12,000/- + Rs.6,000/-), which comes to Rs.2,16,000/- per annum. After deducting 1/3rd towards personal expenses, the annual income of the deceased would be Rs.1,44,000/-. The multiplier for the age of the deceased is '17'. Hence, the compensation comes to Rs.24,48,000/-. Regarding the other conventional heads, the Tribunal granted Rs.25,000/-, but in the light of the judgment of the Apex Court in **National Insurance**

¹ 2009(6) SCC 121

Co. Ltd. Vs. Pranay Sethi², the appellants are entitled to Rs.70,000/-. The total compensation the appellants are entitled is Rs.25,18,000/-.

9. In the result, the Motor Accident Civil Miscellaneous Appeal is allowed in part. The compensation awarded by the Tribunal of Rs.16,57,000/- is enhanced to Rs.25,18,000/- with proportionate costs and interest @ 7.5% per annum from the date of petition till realization. The respondents are directed to deposit the enhanced amount along with proportionate costs and interest within one month from the date of receipt of a copy of this order. On such deposit, the appellants, if appellant Nos.2 and 3 become major, are permitted to withdraw the entire amount in the proportions, as fixed by the Tribunal. Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 29.11.2018
TJMR

² 2017(6) ALD 170 (SC)