

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. Nos.390 OF 2012 & 339 OF 2014

COMMON JUDGMENT:

Since both the appeals arise out of a common order passed in O.P.No.1421 of 2008, dated 16-08-2010, on the file of the XXII Additional Chief Judge-cum-Motor Accident Claims Tribunal, City Criminal Court at Hyderabad (for short, the Tribunal), they are being disposed of by this common judgment.

M.A.C.M.A.No.390 OF 2012:

2. This appeal is filed by the appellants/respondents i.e., APSRTC, on the ground that the driver of the bus was not responsible for the accident, but the deceased was alone responsible and that it has no liability to pay the compensation.

M.A.C.M.A.No.339 OF 2014:

3. This appeal is filed by the appellants/claimants on the ground that the Tribunal awarded an amount of Rs.8,89,000/- against the claim of Rs.12,00,000/- for the death of the deceased and that the Tribunal awarded interest 7% p.a., instead of 7.5% p.a.

4. For the purpose of convenience, the parties are hereinafter referred to as they are arrayed in M.A.C.M.A.No.339 of 2014.

5. The brief facts of the case are that on 24.03.2008 at about 4.50 pm., when the deceased was about to cross the road at Gandhi Statute at Uppal, RTC bus bearing No.AP28Z 1168 came behind the deceased in rash and negligent manner and hit him, as a result of which, he sustained injuries to his head and other parts of the body and died. The legal heirs of the deceased have claimed compensation of Rs.12 lakhs against the APSRTC.

6. Sri Chandrasekhar Reddy, learned counsel for the appellants, submitted that as per the ratio laid down by the Full Bench of the Hon'ble Supreme Court in **National Insurance Co. Ltd. Vs. Pranay Sethi**¹, the appellants are entitled an addition of 15% towards future prospects and a sum of Rs.70,000/- towards conventional heads, but the Tribunal did not award any amount towards future prospects and awarded only Rs.9,500/- towards consortium, funeral expenses and loss of estate. He further submitted that the Tribunal awarded interest 7% p.a., instead of 7.5% p.a., and sought to enhance the awarded amount under those heads.

7. Sri N.Vasudeva Reddy, learned standing counsel for the respondents, submitted that there is contributory negligence on the part of the deceased in the accident and hence the APSRTC (now TSRTC) is not liable to pay the compensation and sought to set aside the Award of the Tribunal.

¹ 2017(6) ALD 170 (SC)

8. In the facts and circumstances of the case, I am inclined to grant an addition of 15% towards future prospects and Rs.70,000/- towards conventional head, as per the Full Bench judgment of the Hon'ble Supreme Court in **Pranay Sethi's** case(1 supra). I am also inclined to enhance the rate of interest from 7% to 7.5% per annum. If calculated, the compensation comes to Rs.10,82,000/- (Rs.92,000/- X 11 + 70,000/-). Except the said enhancement, rest of the award remains un-changed.

9. In the result, M.A.C.M.A.No.390 of 2012 is dismissed and M.A.C.M.A.No.339 of 2014 is allowed in part by enhancing the compensation amount awarded by the Tribunal from Rs.8,89,500/- to Rs.10,82,000/- with interest @ 7.5% per annum. The respondents 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 claimants are permitted to withdraw the entire amount. Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 16.11.2018
TJMR