**SMT. JUSTICE T.RAJANI**

**M.A.C.M.A.No.52 OF 2012**

**JUDGMENT:**

This appeal is preferred by the appellants, who are the claimants before the Tribunal, assailing the judgment and decree, dated 12.09.2011, rendered in M.V.O.P.No.364 of 2010 by the Chairman, Motor Accidents Claims Tribunal – cum – Additional District Judge- cum – Judge, Family Court, Guntur, on the ground that the Tribunal did not award adequate compensation and that the Tribunal erroneously came to a conclusion that there was 50% contributory negligence on the part of the deceased and deducted the compensation amount, proportionate to the said negligence.

2. Heard both sides.

3. A perusal of the record shows that the appellants examined PW.2 on their behalf to prove negligence, but no one is examined on behalf of respondent No.2 to support their contention that the deceased was negligent and contributed to the accident and that the driver of the crime lorry has no valid driving licence. The Tribunal appears to have not appreciated the evidence of PW.2 in right perspective. It observed that though the lorry, which was taking 'U' turn, did not give signal, if the deceased had taken minimum care, he could have averted the accident. But, there is absolutely no reason to assume as such. When there is clear evidence coming from the mouth of PW.2 that the accident occurred due to the negligence of the driver of the crime lorry, there cannot be any reason to make such an assumption to attribute negligence to the deceased. Hence, the judgment of the

Tribunal to the extent of concluding 50% of negligence on the part of the deceased is liable to be set aside and it is held that the accident occurred due to the negligence of the driver of the crime lorry.

4. With regard to the quantum of compensation, the deceased is working in a private company. The salary of the deceased was taken as Rs.6,562/- per month, which is not in dispute. But the contention of the appellants is that future prospects was not taken into consideration while arriving at the compensation and the amount awarded under the heads funeral expenses and loss of estate were also inadequate.

5. The law is well settled by virtue of the judgment of the Honourable Supreme Court in **National Insurance Co. Ltd. v. Pranay Sethi**[1] that 40% of the future hike in income is also to be considered, if the deceased was below the age of 40 years.

6. Hence, following the aforesaid decision, the future prospects in income of the deceased has to be taken at 40%. Then, the monthly income would come to Rs.9,186/- (Rs.6,562/- + (Rs.6,562/- x 40% = Rs.2,624/-)) and the annual income would come to Rs.1,10,232/- (Rs.9,186/- x 12). The deceased, being a bachelor, half (1/2) of the income has to be deducted towards his personal expenditure, which would work out to Rs.55,116/- (Rs.1,10,232/2). Hence, the contribution of the deceased to his family works out to Rs.55,116/-. The multiplier relevant for the age of the deceased, as per the decision of the Honourable Supreme

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[1] 2017 ACJ 2700

Court in **Sarla Verma v. Delhi Transport Corporation**[2], is '18'. But the Tribunal took only '14' as the multiplier, taking the age of the mother of the deceased. Hence, when multiplier '18' is applied, the loss of dependency would come to Rs.9,92,088/- (Rs.55,116/- x 18). Apart from the above, following the decision in **Pranay Sethi's** case (1 supra) Rs.15,000/- is awarded towards loss of estate and Rs.15,000/- is awarded towards funeral expenses. Hence, the total compensation would come to Rs.10,22,088/- (Rs.9,92,088/- + Rs.15,000/- + Rs.15,000/-), which is rounded off to Rs.10,22,000/-. The Tribunal has granted interest at the rate of 6% per annum. The same is maintained on the enhanced amount also.

7. Accordingly, the appeal is allowed in part enhancing the compensation from Rs.2,80,604/- to Rs.10,22,000/- with interest at 6% per annum from the date of petition till the date of realisation. The rest of the terms and conditions of the impugned judgment shall remain intact.

Miscellaneous Petitions, if any, pending in this appeal shall stand closed. There shall be no order as to costs.

**T.RAJANI, J**

July 06, 2018
MD

[2] (2009) 6 SCC 121