THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

<u>M.A.C.M.A.No.2369 of 2018</u>

<u>30.08.2018</u>

Between:

The United India Insurance Co. Ltd.,
represented by its Regional Manager, Hyderabad

..Appellant

and

Smt.Avancha Bhavani and others

..Respondents

Counsel for the appellant: Mr.G.Purushotham Rao, standing counsel

Counsel for respondent Nos.1 to 3: Mr.Ramprasad Pathipaka

The Court made the following:

<u>JUDGMENT</u>: (Per the Hon'ble Sri Justice Gudiseva Shyam Prasad)

This appeal arising out of order and decree, dated 02.04.2018, in M.V.O.P.No.404 of 2015 on the file of the learned Chairman, Motor Accidents Claims Tribunal-cum-XII Additional Chief Judge, City Civil Court, Secunderabad (for short 'the Tribunal') is filed by respondent No.2 – Insurance Company, in the aforementioned M.V.O.P.

2. Respondent Nos.1 to 3 herein, who are the wife, mother and father, respectively, of one Jagadish Chandra (hereinafter referred to as 'the deceased') filed the aforementioned M.V.O.P. under Section 166 of the Motor Vehicles Act, 1988, claiming a compensation of Rs.40,00,000/- (Rupees forty lakhs only) for the death of the deceased in a motor vehicle accident.

3. Brief facts of the case are that on 08.04.2015, at about 0.30 a.m., while the deceased was standing at the cross road in front of Tawakkal Hotel, Kukatpally, Hyderabad, one motorcycle *viz.*, Passion Plus bearing registration No.AP 31AL 8707, being driven in a rash and negligent manner with high speed, hit the deceased, as a result, the deceased sustained several injuries and that though he was immediately shifted to the Apollo Hospital, Hyderabad, for treatment, he died on the same day at about 9.40 a.m. while undergoing treatment. The Police registered a case in

Crime No.266 of 2015 under Section 304-A I.P.C. against respondent No.4 herein - the rider-cum-owner of the offending motorcycle.

4. Respondents Nos.1 to 3 – the claimants, pleaded before the Tribunal that at the time of the accident, the deceased was aged 29 years; that he was working as the Stores Manager in Reliance Fresh and drawing a salary of Rs.20,000/- per month and he would have got hike in the salary at least to Rs.2,00,000/- per month in future and that therefore, they are also entitled for future prospects.

5. The appellant and respondent No.4 denied their liability and took various pleas in their counter-affidavits, including that the claim was excessive.

6. The Tribunal, on consideration of the evidence of the witnesses – P.Ws.1 to 3 examined on behalf of respondent Nos. 1 to 3 – the claimants and R.W.1 examined on behalf of the appellant and respondent No.4, and the documents – Exs. A-1 to A-9 marked on behalf of respondent Nos.1 to 3 – claimants, Exs.B-1 to B-4 marked on behalf of the appellant and respondent No.4 and Ex.X-1 – photocopy of medico legal case certificate pertaining to respondent No.4, has awarded compensation of Rs.31,09,280/- with proportionate costs and

interest at 9% per annum from the date of filing of M.V.O.P. till the date of deposit of the amount, fastening the joint and several liability on the appellant and respondent No.4. Aggrieved by the quantum of compensation, the Insurance Company filed this appeal.

7. Heard the arguments of the learned standing counsel for the appellant – Insurance Company and the learned counsel for respondent Nos.1 to 3 – claimants and perused the record.

8. The learned counsel for the appellant – Insurance Company submits that the quantum of compensation awarded by the Tribunal is extremely high. Except arguing that the quantum of compensation is excessive, no specific points have been raised by the learned counsel for the appellant for reduction of the compensation awarded by the Tribunal.

9. A perusal of the order of the Tribunal shows that regarding the age of the deceased, the Tribunal, considering the documentary evidence, particularly, Ex.A-4 – post-mortem examination report and since there was no cross-examination on the said aspect, came to the conclusion that the deceased was aged 29 years as on the date of the accident. As regards the income of the deceased, the Tribunal, considering the evidence of P.W.3 –

the H.R. Manager of Reliance Retail Limited, who deposed to the effect that the deceased was working as the Senior Executive in their company and was drawing salary at Rs.15,700/- per month, along with the documentary evidence i.e., Exs.A-7 – pay slips three in number, A-8 - service certificate and A-9 - pay slips ten in number, came to the conclusion that the deceased was earning salary at Rs.15,700/- per month. The Tribunal, considering all the aspects and by applying the principles laid down in the judgments rendered by the Apex Court in **Sarla Verma v. Delhi Transport Corporation**[1] and **National Insurance Company Limited v. Pranay Sethi**[2], (i) added 40% to the salary of the deceased towards future prospects of the deceased; (ii) deducted 1/3rd towards the personal expenditure of the deceased; and (iii) applied the appropriate multiplier '17' for the age of the deceased, who was 29 years old by the date of the accident. The Tribunal has, accordingly, properly assessed the loss of dependency.

10. It is pertinent to note that as per the latest judgment rendered by the Apex Court in **Pranay Sethi** (supra 2), respondent Nos.1 to 3/the claimants are entitled to a reasonable amount of Rs.70,000/- under conventional heads *viz.*, loss of estate (Rs.15,000/-), loss of consortium (Rs.40,000/-) and funeral

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[1] (2009) 6 SCC 121
[2] 2017 ACJ 2700 SC

expenses (Rs.15,000/-). A perusal of the order of the Tribunal shows that the Tribunal, (i) by applying the principles laid down in the decisions reported in **Rajesh v. Ranbir Singh**[3] and **Pranay Sethi** (supra 2), awarded Rs.40,000/- towards loss of consortium; (b) by applying the principles laid down in the decision reported in **M.Mansoor v. United India Insurance Co. Ltd.,**[4] awarded Rs.25,000/- each to respondent Nos.2 and 3 – the parents of the deceased, towards loss of love and affection of their son; (c) by applying the principles laid down in the decisions reported in **Kalpanaraj v. Tamilnadu State Transport Corporation**[5] and **Pranay Sethi** (supra 2), awarded Rs.15,000/- towards loss of estate; and (d) by applying the principles laid down in the decisions reported in **Rajesh** (supra 3) and **Pranay Sethi** (supra 2), awarded Rs.15,000/- towards funeral expenses. Therefore, it cannot be said the amounts awarded by the Tribunal under the aforementioned heads are on higher side.

11. In the light of the facts discussed above, we cannot find fault with the quantum of compensation awarded by the Tribunal and the same cannot be said to be excessive. Therefore, we do not see any reason to interfere with the award passed by the Tribunal.

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[3] (2013) 9 SCC 54
[4] (2013) 12 Scale 324
[5] (2014) 5 Scale 479

12. In the result, the M.A.C.M.A. is dismissed and the award passed by the Tribunal is confirmed.

13. As a sequel to dismissal of the M.A.C.M.A., I.A.No.1 of 2018 filed by the appellant for interim relief stands dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

GUDISEVA SHYAM PRASAD, J

30th August, 2018

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