*THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

+MACMA.No.152 of 2009

% 03/08/2018

#Between:

M. Bavaramma, w/o. late Simhadri
and others.

..... APPELLANTS

AND

$ M/s Pancharatna Transport Company
Rep. by V.S. Vijay Babu and others

.....RESPONDENTS

! COUNSEL FOR THE APPELLANTS: Sri Kasireddy Jagathpal Reddy

^ COUNSEL FOR RESPONDENT No.3: Sri R. Venkat Rao

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- Head Note:

? CITATIONS:

2017 ACJ 2700
AIR 1988 AP 99
(2009) 6 SCC 121

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

MACMA No.152 OF 2009

JUDGMENT:

This appeal arises out of the order and decree dated 03.10.2008 in O.P.No.230 of 2007 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-III Additional Chief Judge, City Civil Court, Hyderabad (for short "Tribunal").

2. The appellants herein filed O.P.No.230 of 2007 under Section 166 and 163-A of the Motor Vehicles Act claiming compensation of Rs.6,00,000/- on account of the death of one M. Simhadri (deceased) in a motor vehicle accident occurred on 30.12.2006.

3. The brief facts of the case are that on 30.12.2006 at about 9.00 p.m. at Musheerabad X Roads, while the said M. Simhadri (deceased) was proceeding, an oil tanker bearing No. AP 10 T 5758, driven by its driver in a rash and negligent manner, came and hit the deceased, as a result of which, the deceased sustained injuries and while being shifted to a Hospital, he died on the way.

4. The 1st and 2nd respondents remained *ex parte.*

5. The 3rd respondent – insurer has filed counter affidavit contending that the quantum of compensation claimed by the petitioners is excessive and also denied its liability.

6. The Tribunal, on consideration of the evidence of P.Ws.1 and 2 and the documents Exs.A1 to A3, awarded compensation of

Rs.4,21,000/- with interest at 7.5% per annum from the date of petition till the date of realisation.

7. Aggrieved by the award of compensation, the petitioners are before this Court for just and reasonable compensation. They also filed MACMA.MP. No. 4768 of 2016 in this appeal seeking permission to enhance the claim from Rs.6,00,000/- to Rs.15,00,000/- and the same is ordered today.

8. Heard the arguments of learned counsel for the appellants and the learned Standing counsel for respondent No.3.

9. Learned counsel for the appellants submitted that the Tribunal has not awarded the future prospects, though the deceased was an employee getting salary of Rs.8,000/- per month. It is further submitted that the salary of the deceased was reduced from Rs.8,000/- per month to Rs.6,000/- per month deducting an amount of Rs.2,000/- per month towards allowances and such deduction is not required. It is also submitted that the Tribunal went wrong in adopting multiplier '8.78'. Learned counsel also submitted that the Tribunal has not awarded any amount towards conventional charges like funeral charges, consortium and transport charges and, therefore, requested to award the same.

10. Learned counsel for respondent No.3 submitted that in the light of the judgment rendered by the Honourable Apex Court in National Insurance Company Limited v. Pranay Sethi & others[1], the permanent employees are only entitled for future prospects. The

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[1] 2017 ACJ 2700

deceased is not a permanent employee and, therefore, he is not entitled to claim future prospects.

11. At the outset, the short point that arises for consideration in this matter is whether the petitioners are entitled for grant of future prospects and the conventional charges in the light of the judgment rendered by the Apex Court in Pranay Sethi[1].

12. There is no dispute that the deceased was working as an employee in a private firm. The Tribunal, on consideration of the documentary and oral evidence, has arrived at a conclusion that the salary was Rs.6,000/- per month after deducting allowances of Rs.2,000/- per month. The said fact is not in dispute.

13. With regard to the claim of the petitioners for awarding future prospects is concerned, it is appropriate to refer to paragraph 61 (iv) of the judgment in Pranay Sethi[1] which reads as under:

> "In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component."

In the light of the aforesaid decision, considering the age of the deceased as 48 years, the future prospects are to be awarded @ 25%.

14. Coming to the aspect of multiplier, the Tribunal considered multiplier '8.78' based on the judgment of this Court in

Bhagwandas v. Mohd. Arif[2]. But, as per the judgment rendered by the Apex Court in Sarla Verma & others v. Delhi Transport Corporation and another[3], in respect of the deceased aged 48 years as on the date of accident, multiplier applicable is '13'. Therefore, multiplier considered by the Tribunal is modified as '13'.

15. Thus, after deducting 1/3rd towards personal expenses from Rs.6,000/- monthly income of the deceased, the contribution of the deceased to the family works out to Rs.4,000/- per month or Rs.48,000/- per annum. When 25% thereof is added towards future prospects as per the decision in Pranay Sethi[1], it works out to Rs.60,000/- (Rs.48,000 + 12,000) per annum. When the same is multiplied with the multiplier '13', the loss of dependency works out to Rs.7,80,000/- (Rs.60,000 x 13). This apart, the petitioners are also entitled to a conventional sum of Rs.70,000/- in view of the decision of the Honourable Supreme Court in Pranay Sethi[1], as the Tribunal has not considered to award any amount under that head.

16. Thus, the petitioners are entitled to a total sum of Rs.8,50,000/- (Rupees Eight lakh fifty thousand only), as against Rs.4,21,000/- granted by the Tribunal, towards compensation and the same is, accordingly, granted.

17. In the result, the appeal is partly allowed modifying the award passed by the Tribunal, by enhancing the compensation as indicated above with interest at 7.5% per annum from the date of petition till realisation. No order as to costs.

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[2] AIR 1988 AP 99

[3]. (2009) 6 Supreme Court Cases 121

18. Since it is submitted that the compensation awarded by the Tribunal was already deposited before the Tribunal, the respondents are directed to deposit the balance amount within one month from the date of receipt of a copy of this order. On such deposit, the appellants are permitted to withdraw the same as per the shares fixed by the Tribunal.

Miscellaneous petitions, if any pending, shall stand closed.

GUDISEVA SHYAM PRASAD, J

03-08-2018
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