

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A. C.M.A. No.44 OF 2017

JUDGMENT:

Heard Sri S.V. Ramana, learned standing counsel for Andhra Pradesh State Road Transport Corporation, represented by the present appellants, who are respondent Nos.1 and 2 in M.V.O.P. No.37 of 2015 on the file of the learned Chairman, Motor Accidents Claims Tribunal - cum - VI Additional District Judge, Visakhapatnam, and Sri P. Raj Kumar, learned counsel for respondent Nos.1 to 5, who are claimants.

2. The learned standing counsel for the Corporation would submit that the learned Chairman went wrong in awarding Rs.1,00,000/- towards loss of love and affection, another Rs.1,00,000/- towards loss of consortium, and also one more Rs.1,00,000/- towards loss of estate, which are all unsustainable in view of the ruling of the Hon'ble Supreme Court in **National Insurance Co. Ltd. v. Pranay Sethi¹**. However, the learned standing counsel does not dispute in regard to the age of the deceased being 25 years at the relevant time, and he would fairly admit that since the dependants are five (5) in number, deduction towards personal living expenses of the deceased is not 1/3rd, and it ought to be 1/4th.

¹ 2017ACJ 2700

3. The Tribunal has taken monthly income of the deceased as Rs.4,500/- treating him as unskilled labourer based on the ruling in **Sri Ramachandrappa v. Manager, Royal Sundaram Alliance Insurance Company Limited** [2011 (6) ALT 48], where the Hon'ble Supreme Court held that age of the labourer would be between Rs.100/- and Rs.150/- per day during the relevant time.

4. In such an event, if Rs.4,500/- is taken as monthly income of the deceased, and $1/4^{\text{th}}$ i.e., Rs.900/- ($\text{Rs.4,500/-} \times 1/5$) is deducted therefrom towards his personal living expenses, annual contribution to the family would work out to Rs.43,200/- ($\text{Rs.4,500/-} - \text{Rs.900/-} \times 12$).

5. So far as multiplier factor '18' is concerned, the same is applicable, and, therefore, when multiplier '18' is applied, the loss of dependency works out to Rs.7,77,600/- ($\text{Rs.43,200/-} \times 18$).

6. The learned counsel for the claimants came forward with the submission that the claimants are inclined to file a separate appeal with delay condonation application for the reason that future prospects are not considered by the Tribunal. Giving such a liberty to the claimants to prefer separate appeal, the present appeal is disposed of.

7. So far as Rs.1,00,000/- towards loss of love and affection, Rs.1,00,000/- towards consortium and Rs.1,00,000/- towards loss of estate are concerned, in the ruling in **Pranay Sethi¹**, the Hon'ble Supreme Court has granted a total sum of Rs.70,000/- (Rupees

seventy thousand only) towards conventional sum, and, therefore, the same is granted towards loss of love and affection, loss of consortium and loss of estate, as against Rs.3,00,000/-.

8. The amount of Rs.10,000/- granted by the Tribunal towards transportation and funeral expenses is maintained treating it as the amount granted towards transportation charges.

9. Since the rate of interest at 7.5% per annum granted by the Tribunal is in tune with the decision of the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**², the same is maintained.

10. Thus, the claimants are entitled to a total compensation of Rs.8,57,600/- (Rupees eight lakhs fifty seven thousand six hundred only) as against Rs.9,58,000/- granted by the Tribunal and the same is accordingly granted with interest at 7.5% per annum.

11. Out of the total compensation, claimant No.1, wife of the deceased, is entitled to Rs.3,00,00/- (Rupees three lakhs only) and claimant Nos.2 and 3, who are children of the deceased, are entitled to Rs.1,75,000/- each, and claimant Nos.4 and 5, who are parents of the deceased, are entitled to the remaining amount i.e., Rs.1,03,800/- (Rupees one lakh three thousand eight hundred only) each.

² 2013ACJ1403 = 2013(4)ALT35

12. Claimant Nos.1, 4 and 5, who are wife and parents, respectively, of the deceased, are permitted to withdraw their respective shares of amount. However, the share amounts of claimant Nos.2 and 3, who are minor children of the deceased, shall be deposited in an interest yielding nationalized bank till they attain majority.

13. With the above directions, the Civil Miscellaneous Appeal is allowed in part reducing the compensation as indicate above. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the present revision petition stand dismissed as withdrawn.

April 17, 2018.

NOTE:

C.C. by tomorrow.

(BO)
PV

A. SHANKAR NARAYANA, J