THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
THE HON'BLE SMT. JUSTICE T.RAJANI

MACMA. No.667 of 2015

JUDGMENT: (Per Hon'ble Sri Justice Suresh Kumar Kait)

Vide the present appeal, the appellant/Insurance Company has challenged the award dated 12.01.2015 passed in MVOP.No.45 of 2011 by the XXVII Additional Chief Judge-cum-Chairman Motor Vehicle Accident Claims Tribunal, City Civil Courts, Secunderabad whereby the learned Tribunal awarded total compensation of Rs.25,10,000/- with interest at the rate of 6% per annum from the date of petition till the realisation.

Learned counsel appearing on behalf of the appellant argued that the deceased was a student of Engineering and however, it is not established that in which year of the Engineering he was at the time of the accident. However, if the deceased is considered as he was Engineering graduate, at that point of time, still in view of the case of **B.RAMULAMMA Vs. M/S. VENKATESH BUS UNION AND ANOTHER**[1] the learned Tribunal should have assessed his income at Rs.12,000/- per month but the learned Tribunal has assessed the monthly income of the deceased at Rs.15,000/- per month.

Second argument by the counsel for the appellant is that as per the dictum of **NATIONAL INSURANCE CO.LTD. Vs. PRANAY SETHI**[2] future prospects at 40% should have been added in the income. However, the learned Tribunal contrary to that has added

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[1] 2009(3) LS 173 (DB)
[2] 2017 ACJ 2700

50% in his income and accordingly awarded compensation of Rs.25,10,000/-.

Counsel appearing on behalf of the respondents/claimants does not dispute what is stated by the counsel for the appellant and submits that the income has to be assessed as Rs.12,000/- per month and future prospects should be reduced from 50% to 40%.

Accordingly, we hereby modify the award as under.

Hence, following the decision of the Supreme Court in **PRANAY SETHI's** case (2 supra), the future prospects in income has to be taken at 40%. The loss of monthly income would come to Rs.12,000/- + (Rs.12,000/- x 40% = Rs.4,800/-) = Rs.16,800/- and the loss of annual income would come to Rs.16,800/- x 12 = Rs.2,01,600/-. The deceased, being a bachelor, half (1/2) of the income has to be deducted towards his personal expenditure i.e. Rs.2,01,600/- x ½ = Rs.1,00,800/-. The multiplier relevant for the age of the deceased as per the decision of the Supreme Court in **SARLA VARMA v. DELHI TRANSPORT CORPORATION**[3] is '18'. Hence, the loss of future income would come to Rs.1,00,800/- x 18 = Rs.18,14,400/-. Apart from the above, following the decision in **PRANAY SETHI's** case (2 supra) Rs.15,000/- is awarded towards loss of estate and Rs.15,000/- is awarded towards funeral expenses. Rs.5,000/- towards transportation. Hence, in all, the respondents/claimants are entitled to total compensation of Rs.18,14,400/- + Rs.15,000/- (loss of estate) + Rs.15,000/- +

[3] (2009) 6 SCC 121

Rs.50,000/- (love and affection) + Rs.5,000/- (transporation) = Rs.18,99,400/-.

In view of the above, the appeal is allowed. The rest of the terms and conditions of the award shall remain in tact. There shall be no order as to costs.

Miscellaneous petitions, if any pending, shall stand closed.

JUSTICE SURESH KUMAR KAIT

JUSTICE T. RAJANI

Date: 12.04.2018
LSK