

**HON'BLE SRI JUSTICE T.AMARNATH GOUD**

**M.A.C.M.A. No.1393 of 2006**

**JUDGMENT:**

This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 26-11-2004 passed in O.P.No.231 of 2003 by the Motor Vehicle Accidents Claims Tribunal-cum-I Additional District Judge, Karimnagar (for short, the Tribunal).

2. Brief facts of the case are that on 29-10-2002 at about 6.15 a.m. when the deceased-Balaram Reddy was traveling in a jeep bearing No.AP 15 V 1592 from Jangam village to go to Husunabad and when the jeep reached Chowtapalli, the driver of the jeep drove it in a rash and negligent manner, due to which, the jeep turned turtle and the deceased sustained head injury and died on the spot. Hence, the claimants, who are wife, children and mother of the deceased, filed a claim petition against the respondent Nos.1 and 2, who are the owner and insurer of the crime vehicle, claiming compensation of Rs.7.00 lakhs for the death of the deceased.

3. In the claim petition, the insurer filed its counter denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

4. After considering the oral and documentary evidence on record, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving on the part of the driver of the crime vehicle only.

So far as granting of compensation is concerned, the Tribunal granted an amount of Rs.4,47,500/- under various heads with interest at 9% per annum through out, payable by both the respondents jointly and severally.

5. Dissatisfied with the quantum of compensation, the appellants/claimants filed the present appeal seeking for enhancement of the compensation.

6. Heard the learned counsel for the appellants-claimants and the learned Standing Counsel for the 2<sup>nd</sup> respondent-insurer.

7. Learned counsel for the appellants-claimants contends that it is a case of death and at the time of accident, the deceased was aged about 47 years and he was earning Rs.8,772/- per month as per Ex.A-6, salary slip, as an employee in the South Central Railways. He further contends that the Tribunal erred in awarding lesser compensation by taking monthly income at Rs.2,933/- per month only. He further contends that Tribunal also erred in awarding lesser compensation under the additional heads viz., loss of consortium and love and affection. Therefore, the claimant is entitled for fair compensation.

8. Learned Standing Counsel for the 2<sup>nd</sup> respondent-insurer contends that the Tribunal awarded compensation in a just and proper manner and he supported the order passed by the Tribunal and prayed to dismiss the appeal.

9. As seen from the order of the Tribunal, the Tribunal has taken monthly income of the claimant as Rs.2,933/- per month. Admittedly, there is no dispute with regard to the deceased worked in the South Central Railways and earning income of Rs.8,772/- as per Ex.A-6. After deducting Rs.80/- as profession tax, it comes to Rs.8,692/- p.m. Further, as there are four number of dependents,  $1/4^{\text{th}}$  deduction can be taken towards personal expenses instead of  $1/3^{\text{rd}}$ . Then his monthly income comes to Rs.6,519/-.

10. In spite of that, as per the decision of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi**<sup>1</sup>, the deceased is entitled to be granted future prospects at 30% as he was a regular employee. Then his monthly income comes to Rs.8,475/- (6519 + 1956) per month i.e. Rs.1,01,700/- per annum; Further, since at the time of accident, the deceased was aged about 47 years, the Tribunal has to take multiplier '13' instead of '12'. Hence, the total loss of income in respect of the contribution towards his family members comes to Rs.13,22,100/- (Rs.1,01,700 x 13).

11. Further, The Tribunal granted Rs.10,000/- towards loss of consortium. However, compensation granted under this head is to be re-determined since the deceased was a married person, the 1<sup>st</sup> claimant is entitled to be granted compensation of Rs.70,000/- towards conventional head, which is covered this head, as per the decision of the Supreme Court in **Pranay Sethi** (1 supra). Hence, instead of granting Rs.10,000/- under this head, an amount of Rs.70,000/- is granted to the claimants.

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<sup>1</sup> 2017 (6) 170 (SC)

12. Further, being parent of the deceased, the 4<sup>th</sup> claimant is also entitled to be granted compensation of Rs.40,000/- instead of Rs.5,000/- granted by the Tribunal towards 'loss of filial' which includes the head of 'loss of love and affection', as per the decision of the Supreme Court in **Magma General Insurance Company Limited v. Nanu Ram @ Chuhru Ram**<sup>2</sup>.

13. Further, though there is typographical error occurred in the order of the Tribunal while totaling the compensation at para 8 i.e. showing Rs.4,47,352/- instead of Rs.4,37,352/-, it needs no consideration as this Court granted more than that compensation by allowing the appeal itself.

14. With the above modification, the claimants are granted total compensation of Rs.14,32,100/- under various heads as follows:

| Sl.No. | Name of Head               | Awarded by Tribunal | Awarded by this Court |
|--------|----------------------------|---------------------|-----------------------|
| 01.    | Loss of income             | Rs.4,22,352/-       | Rs.13,22,100/-        |
| 02.    | Love and Consortium        | Rs. 10,000/-        | Rs. 70,000/-          |
| 03.    | Loss of love and affection | Rs. 5,000/-         | Rs. 40,000/-          |
| Total  |                            | Rs.4,37,352/-       | Rs.14,32,100/-        |

15. In the result, the appeal is allowed by enhancing the compensation awarded by the Tribunal from Rs.4,37,352/- to Rs.14,32,100/- (Rupees Fourteen Lakhs Thirty Two Thousand One Hundred only). The enhanced amount of compensation shall carry interest at 7.5% per annum. The appellants/claimants are directed to pay deficit Court Fee. The respondents are directed to deposit the enhanced amount along with

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<sup>2</sup> 2018 Law Suit (SC) 904

proportionate costs and interest within two months from the date of receipt of a copy of this order. On such deposit, the appellants/claimants are permitted to withdraw the entire amount. No costs.

16. Miscellaneous petitions pending, if any, shall stand closed.

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**JUSTICE T.AMARNATH GOUD**

Date: 30.10.2019

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