THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1863 OF 2010

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 01.07.2010 passed in O.P.No.1458 of 2009 by the Motor Accident Claims Tribunal-cum-III Additional Chief Judge, City Civil Court, Hyderabad (for short, the Tribunal).

2. The brief facts of the case are that appellant No.1 is the wife and appellant No.2 is the son of the deceased, J.Thaurya. On 14.02.2009 at about 8.15 am, while the deceased and another were proceeding on a motorcycle, and when they reached Gundala Bus Stage, Veladanda Mandal, a lorry bearing No.AP16W 1127 came in high speed in a rash and negligent manner and dashed against the motorcycle, as a result of which, deceased sustained grievous injuries and died on the spot. The claimants filed aforesaid OP claiming compensation of Rs.5,00,000/- against respondent Nos.1 and 2, owner and insurer of the lorry, for the death of the deceased.

3. Before the Tribunal, respondent No.1 remained *ex parte.* Respondent No.2 filed 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 of the driver of the

lorry and awarded total compensation of Rs.3,50,000/- with interest @ 7.5% per annum i.e., Rs.3,36,000/- towards loss of earnings and Rs.14,000/- towards loss of consortium. Dissatisfied with the quantum of compensation, the appellants filed the present appeal, seeking enhancement of the same.

5. Sri P.Ramakrishna Reddy, learned counsel for the appellants, submitted that though the appellants produced the evidence to show that the deceased, as a milk vendor, was earning Rs.10,000/- per month, the Tribunal erroneously fixed the income of the deceased at Rs.3,000/- per month and the same is very low. He further submitted that the appellants are also entitled to addition of 25% on the income of the deceased towards future prospects and also Rs.70,000/- towards conventional charges, as per the ratio laid down by the Hon'ble Supreme Court in **National Insurance Co. Ltd. Vs. Pranay Sethi[1].**

6. Sri P.Harinath Gupta, learned Standing Counsel for respondent No.2, submitted that the Tribunal passed a well reasoned order and sought to dismiss the appeal.

7. Though the appellants claimed Rs.10,000/- per annum towards the income of the deceased, they did not file any proof to that effect. Therefore, the Tribunal fixed the income of the deceased at Rs.3,000/- per month notionally, which needs no interference. As rightly argued by the learned counsel for the

[1] 2017(6) ALD 170 (SC)

appellants, the appellants are entitled to addition of 25% towards future prospects, as per **Pranay Sethi**'s case (supra). Therefore, monthly income of the deceased comes to Rs.3,750/- (Rs.3,000/- + Rs.750/-), and after deduction of 1/3rd, as the dependants are two in number, the annual income comes to Rs.30,000/- (Rs.2,500/- X 12). As the deceased was aged 45 years, the appropriate multiplier is '14'. Hence, the compensation under the head 'loss of earnings comes to Rs.4,20,600/- (Rs.30,000/- X 14). Apart from the same, the appellants are entitled to Rs.70,000/- towards conventional heads, as per **Pranay Sethi**'s case (supra). Therefore, the total compensation comes to Rs.4,90,600/- (Rs.4,20,600/- + Rs.70,000/-).

8. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed, enhancing the compensation amount awarded by the Tribunal from Rs.3,50,000/- to Rs.4,90,600/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of claim petition till realization. Miscellaneous petitions pending, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 31.07.2019
TJMR