HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. Nos.2685 of 2006 & 149 of 2012

COMMON JUDGMENT:

Since both the appeals arise out of the common order, they are being disposed of by this common judgment.

2. Both the appeals are filed against the common order and decree dated 10-08-2006 passed in O.P.No.302 of 2005 by the M.A.C.T.-cum-V Additional District Judge (F.T.C.), Ranga Reddy District at L.B.Nagar (for short 'the Tribunal').

3. Brief facts of the case are that the claimants, who are the legal heirs of the deceased-Raju, filed the claim petition against the owner and insurer of the crime vehicle claiming compensation of Rs.3.00 lakhs for the death of the deceased in the accident occurred on 30-01-2005 due to the rash and negligent driving of the driver of Tata Sumo bearing No.AP 10 J 9869, when he is proceeding on his motorcycle from his house and when he reached the black tank of Uppal at Pirjadiguda.

4. In the claim petition, the owner and insurer of the crime vehicle filed their separate counters denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

5. 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 and accordingly, held that the claimants are entitled to be granted an amount of Rs.3,64,500/- i.e. Rs.3,60,000/- towards loss of income; Rs.2,000/- towards funeral; and Rs.2,500/- towards loss of estate. However, since the claimants have restricted their claim to Rs.3.00 lakhs, the Tribunal granted Rs.3.00 lakhs with interest at 7.5% per annum, payable by the respondents jointly and severally.

6. Aggrieved by the order of the Tribunal, the claimants filed MACMA No.2685 of 2006 and the insurer filed MACMA No.149 of 2012.

7. Heard Sri Kasireddy Jagathpal Reddy, learned counsel for the claimants and Smt. Mamuvani, learned Standing Counsel, for the insurer.

8. Learned counsel for the claimants contends that the Tribunal erred in awarding meager compensation towards loss of dependency by taking monthly income @ Rs.3,000/- only instead of Rs.5,000/- as notional income as per the decision of the Supreme Court in **Syed Sadiq and others v. United India Insurance Com. Ltd.[1],** wherein, the Supreme Court has taken monthly income of the vegetable vendor @ Rs.6,500/- per month; and that as per latest laws laid down by the Apex Court, the claimants are also entitled for compensation towards conventional head and filial charges. Hence, he prayed for fair compensation.

[1] (2014) 2 S.C.C. 735

9. Per contra, learned Standing Counsel for the insurer contends that there is no material to show that the deceased was earning fixed income and therefore the compensation granted by the Tribunal is excessive and the same may be reduced by dismissing the appeal filed by the claimants.

10. On perusal of the evidence, it is clear that Exs.A-3, A-4 and A-7 are the inquest report, postmortem report and death certificate, respectively. The deceased was aged about 23 years at the time of accident and he was doing wood work business in the name of style of M/s.Laxmikala Wood Furniture Works at Balajinagar of Ramanthapur, Hyderabad and was earning more than Rs.5,000/- per month. Therefore, since the deceased was a carpenter and doing business, engaging workers and paying wages @ Rs.150/- each per day, and in the light of the decision of the Supreme Court in **Syed Sadiq and** others (1 supra), his income can be fixed at the rate of Rs.5,000/- per month i.e. Rs.60,000 per annum; that since the deceased was un-married, as per **Smt. Sarla Varma v. Delhi Transport Corporation**[2]**,** 50% deduction towards personal expenses of the deceased is to be taken. Then it comes to Rs.30,000/- per annum.

11. Further, as per **National Insurance Company Limited Vs. Pranay Sethi**[3]**,** claimants are entitled towards 40% future prospects as the deceased was below 40 years, then it comes to

[2] (2009) 6 S.C.C. 121
[3] 2017 (6) 170 (SC)

Rs.42,000/- per annum (Rs.30,000/- + Rs.12,000/-); and that since the age of the deceased is 23 years, as per **Smt. Sarla Varma** (1 supra)**,** '18' multiplier is to be applied, then his total annual income comes to Rs.7,56,000/- (Rs.42,000 x 18).

12. Further, The Tribunal granted Rs.2,000/- towards loss of funeral and Rs.2,500/- towards loss of estate, totaling Rs.4,500/-. However, compensation granted under these heads is to be re-determined since the deceased was an unmarried person, the claimants are entitled to be granted compensation of Rs.30,000/- towards conventional head, which is covered all these heads, as per the decision of the Supreme Court in **Pranay Sethi** (1 supra). Hence, instead of granting Rs.4,500/- under these heads, fixed amount of Rs.30,000/- is granted to the claimants.

13. Further, as per **Magma General Insurance Company Limited v. Nanu Ram @ Chuhru Ram[4],** claimant Nos.1 and 2 being parents are also entitled for Rs.40,000/- each towards filial charges, which comes to Rs.80,000/-.

14. Therefore, the claimants are granted total compensation of Rs.8,66,000/- i.e. Rs.7,56,000/- + Rs.30,000/- + Rs.80,000/-

15. In the result, M.A.C.M.A.No.2685 of 2006 filed by the claimants is allowed and M.A.C.M.A.No.149 of 2012 filed by the insurer is dismissed. The compensation awarded by the Tribunal is

[4] 2018 Law Suit (SC) 904

enhanced from Rs.3,00,000/- to Rs.8,66,000/- (Rupees Eight Lakhs and Sixty Six Thousand only). The enhanced amount of compensation shall carry interest at 7.5% per annum. The claimants are directed to pay the deficit Court Fee. The respondents are directed to deposit the enhanced amount jointly and severally along with proportionate costs and interest within two months from the date of receipt of a copy of this order. On such deposit, the claimants are permitted to withdraw the entire amount. No costs.

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

JUSTICE T.AMARNATH GOUD

Date: 09.12.2019
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