

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.561 OF 2011

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 02.12.2010 passed in O.P.No.808 of 2007 by the Chairman, Motor Accidents Claims Tribunal (District Judge), at Nalgonda (for short, Tribunal).

2. The brief facts of the case are that the appellants are the wife, children, sister and father of the deceased-Bande Narsimha Rao. The appellants stated that on 01.05.2007, the deceased started on his Hero Honda Splender motor cycle from Kodad in order to go to shaligowaram Police station for attending his duty and the deceased was riding the motor cycle on the extreme left side of the road by observing the traffic rules and when he reached near Reliance Petrol Bunk, which is situated in the outskirts of Akupamula Village, one Tractor and Trailer bearing No.AP 24K 4352 and 4353, driven by its driver in a rash and negligent manner with high speed, came in the opposite direction and dashed to the motor cycle of the deceased, as a result the deceased fell down from the motor cycle and the tractor and trailer ran over the deceased and the deceased died while he was being shifted to the Hospital at Khammam. Mungala Police registered a case in Crime No.57 of 2007 against the driver of the tractor and trailer. According to the petitioners, prior to the accident the deceased was hale and healthy and was aged about 37 years as on the date of accident and was working as Police Constable and earning Rs.10,059/- per month and contributing his entire earnings for the maintenance of the family. Due to premature death of the deceased, the appellants suffered a lot and they lost the earning member of the family and they do not have any other source of income. The 1st

respondent is the driver, 2nd respondent is the owner and the 3rd respondent is the insurer of the crime vehicle and therefore, all the respondents are jointly and severally liable to pay compensation to the appellants. Originally, the appellants filed the claim petition claiming compensation of Rs.13,00,000/- and subsequently as per the orders in IA.No.2871 of 2009, dated 26.11.2009, the claim of compensation was enhanced to Rs.23,00,000/-.

3. Respondents 1 & 2 remained *ex parte*. Before the Tribunal, the 3rd respondent filed a 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 evidence produced by the parties, the Court below granted total compensation of Rs.10,73,480/-, with interest @ 7.5% per annum from the date of petition till realization, i.e., 10,53,480/- towards loss of dependency, Rs.15,000/- towards loss of estate and Rs.5,000/- towards funeral and other expenses. Dissatisfied with the quantum of compensation, the appellants filed the present appeal, seeking enhancement of the same.

5. Heard.

6. Though the claim is made for Rs.23,00,000/-, it is a bounden duty of this Court to award just and proper compensation. Before the Tribunal, the appellants filed Ex.A.5 salary certificate to show that the deceased was working as Police Constable and was getting salary of Rs.10,079/- per month. Therefore, this Court is inclined to take the income of the deceased at Rs.10,079/- per month. Apart from the same, the appellants are entitled to addition of 50% towards future prospects since he being a Government employee and aged about 35

years, as per the decision of the Hon'ble Supreme Court in **National Insurance Co. Ltd. Vs. Pranay Sethi**¹. Therefore, the monthly income of the deceased comes to Rs.15,119/- (Rs.10,079/- + Rs.5,040/-), and after deduction of 1/4th towards personal expenses of the deceased since there are four family members, which comes to Rs.11,339/- (Rs.15,119/- - Rs.3,780/-), the annual income comes to Rs.1,36,068/- (Rs.11,339/- x 12 months). The multiplier for the age of the deceased is '16'. Hence, the compensation under the head 'loss of income' comes to Rs.21,77,088/- (Rs.1,36,068/- x 16). Apart from the same, the appellants are entitled to Rs.70,000/- towards conventional heads, as per the decision of the Hon'ble Supreme Court in **Pranay Sethi's case** (supra). Therefore, the total compensation comes to Rs.22,47,088/- (Rs.21,77,088/- + Rs.70,000/-). Except the said modification, the order of the Tribunal remains unchanged.

7. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed by enhancing the compensation amount awarded by the Tribunal from Rs.10,73,480/- to Rs.22,47,088/-. The enhanced amount shall carry interest @ 7.5% per annum. No costs.

As a sequel thereto, Miscellaneous Applications, if any, pending in this appeal shall stand disposed of.

T.AMARNATH GOUD, J

Date: 13th June, 2019

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¹ 2017(6) ALD 170 (SC)