THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1802 OF 2006

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Judgment and Decree dated 05.06.2006 passed in M.V.O.P.No.1378 of 2003 by the Motor Vehicle Accident Claims Tribunal-cum-XXI Additional Chief Judge-cum-Additional Metropolitan Sessions Judge for the Trial of Communal Offence Cases-cum-VII Additional Metropolitan Sessions Judge, Hyderabad (for short, the Tribunal).

2. The brief facts of the case are that appellant Nos.1 to 3 are the daughters of the deceased, Smt.Sushma Khajuria. On 04.08.2002, while the deceased, along with her husband, was proceeding to Bhilai from Hyderabad in their car, and when they reached Darpda on National Highway No.7, the lorry belonging to respondent No.1 came in a rash and negligent manner and hit the car, due to which, the deceased sustained grievous injuries and died on the spot. The claimants filed aforesaid MVOP 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 compensation of Rs.2,25,000/- with interest @ 7.5% per annum. Dissatisfied with the quantum of compensation, the appellants filed the present appeal, seeking enhancement of the same.

5. Sri K.Venkat Reddy, learned counsel for the appellants, submitted that though the appellants produced the evidence to show that the deceased was earning Rs.4,000/- per month by working as a Teacher, the Tribunal erroneously fixed the income of the deceased at Rs.15,000/- per annum and the same is very low. He further submitted that the appellants are also entitled to addition of 40% on the income of the deceased towards future prospects and also Rs.30,000/- 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 V.Krishna Rao, learned counsel for respondent No.2, submitted that the educational certificates of the deceased i.e., Exs.A8 and A9 cannot be relied to prove the income of the deceased. The Tribunal passed a well reasoned order and sought to dismiss the appeal.

7. Though no proof of income of the deceased was filed, as the deceased is stated to be working as Teacher, this Court is inclined

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

to fix the income of the deceased at Rs.4,000/- per month notionally. Apart from the same, the appellants are entitled to addition of 40% towards future prospects, as per **Pranay Sethi**'s case (supra). Therefore, monthly income of the deceased comes to Rs.5,600/- (Rs.4,000/- + Rs.1,600/-), and after deduction of 1/3rd as the dependants are three in number, the annual income comes to Rs.44,796/- (Rs.3,733/- X 12). As the deceased was aged about 40 years, the appropriate multiplier is '15'. Hence, the compensation under the head 'loss of dependency' comes to Rs.6,71,940/- (Rs.44,796/- X 15). Apart from the same, the appellants are entitled to Rs.30,000/- towards funeral charges, as per **Pranay Sethi**'s case (supra). Therefore, the total compensation comes to Rs.7,01,940/- (Rs.6,71,940/- + Rs.30,000/-).

8. In the result, the Motor Accident Civil Miscellaneous Appeal is allowed, enhancing the compensation amount awarded by the Tribunal from Rs.2,25,000/- to Rs.7,01,940/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of claim petition till realization. As the claimants claimed only Rs.5,00,000/-, they are directed to deposit deficit Court fee before the Tribunal. Miscellaneous petitions pending, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 24.10.2019
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