THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1336 OF 2010

JUDGMENT:

This appeal is filed by the appellant/insurance company aggrieved by the Order and Decree dated 08.06.2010 passed in M.V.O.P.No.725 of 2009 by the Motor Accidents Claims Tribunal (District Judge), at Khammam (for short, Tribunal).

2. The brief facts of the case are that the claimants are the father and mother of the deceased-Vamireddy Atchi Reddy, who was a graduate aged about 23 years and was an agriculturist. On 12.11.2008, when the deceased went to his fields for attending to agriculture operations and after completion of the same, when he was returning on his bicycle, the Maruthi Swift Car bearing No.AP 16BT T/R 8796, driven by Abdulla and proceeding towards Wyra Road came in a rash and negligent manner in high speed and dashed against the deceased cyclist, due to which he fell down and sustained grievous injuries. The deceased was immediately shifted to Hope Super Specialty Hospital, Khammam, where he died at about 1.00 p.m. in the afternoon. The deceased was unmarried and was a brilliant student and was earning Rs.1,00,000/- per annum from his agricultural operations and that the deceased died at young age leaving behind his parents. Originally, the claimants claimed a compensation of Rs.24,00,000/-, but later they restricted their claim to Rs.4,00,000/-. The 1st respondent and the 2nd respondent, who are owner and insurer of the offending vehicle, are jointly and severally liable to pay the compensation.

3. Before the Court below, the respondents filed separate counters 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 Tribunal granted total compensation of Rs.4,00,000/-, with interest @ 7.5% per annum from the date of petition till realization, i.e., Rs.3,60,000/- towards loss of dependency and Rs.40,000/- towards loss of love and affection. Aggrieved by the same, the appellant/insurance company filed the present appeal.

5. The Tribunal has awarded the amount of Rs.4,00,000/-, which is claimed by the claimants. According to the claimants, the deceased was a graduate and aged about 23 years and he is an unmarried person and as he could not complete his graduation, he was looking after the agriculture. Thus, the Tribunal has taken the notional income of the deceased @ Rs.3,000/- per month and deducted 1/3rd towards personal expenses of the deceased and applied '15' multiplier.

6. Mr.Kondadi Ajay Kumar, learned counsel, representing Smt.A.Jayanthi, learned counsel appearing for the appellant, has vehemently argued that since there is no proof of income, the Tribunal has fixed Rs.3,000/- per month, but as the deceased has discontinued his education in graduation and was doing agriculture, a notional income of Rs.100/- per day as daily wages can be taken into consideration and since the deceased was an unmarried person, deduction of 50% has to be applied and since the age of the deceased was 23 years at the time of the accident, as per the decision reported

in **Sarla Verma and others v. Delhi Transport Corporation and Another**[1], multiplier of '18' has to be applied.

7. On the other hand, Ms.Hari Priya, learned counsel representing Mr.Kowturu Pavan Kumar, learned counsel appearing for respondents 1 & 2/claimants, contended that fixing of Rs.3,000/- per month by the Tribunal is reasonable and accordingly, the income needs to be confirmed.

8. Heard both sides.

9. This Court feels that fixing of Rs.3,000/- per month by the Tribunal is just and reasonable, as even according to the argument of the learned counsel for the appellant/insurance company, if Rs.100/- per day as minimum wages is taken into consideration, the same would come to Rs.3,000/- per month and even according to Minimum Wages Act, if Rs.136/- per day is taken into consideration, the same would come to Rs.4,500/-.

10. In the facts and circumstances of the case, this Court is inclined to take the income of the deceased at Rs.3,000/- per month notionally, and after deduction of 50% towards personal expenses of the deceased since the deceased is an unmarried person, the income of the deceased comes to Rs.1,500/- (Rs.3,000/- x 50%) per month. Hence, the annual income comes to Rs.18,000/- (Rs.1,500/- x 12 months). As the age of the deceased is 23 years at the time of the accident, the multiplier for the age of the deceased is '18' as per the decision reported in **Sarla Verma's case** (supra). Hence, the compensation under the head 'loss of income' comes to Rs.3,24,000/- (Rs.18,000/- x

[1] (2009) 6 SCC 121

18). The amount of Rs.40,000/- awarded by the Tribunal under the head of loss of love and affection remains the same. Therefore, the total compensation comes to Rs.3,64,000/- (Rs.3,24,000/- + Rs.40,000/-).

11. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed by reducing the compensation amount awarded by the Tribunal from Rs.4,00,000/- to Rs.3,64,000/-. No costs.

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

T.AMARNATH GOUD, J

Date: 10th July, 2019

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