

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.715 OF 2006

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 08.12.2005 passed in M.V.O.P.No.1919 of 2004 by the Motor Vehicle Accidents 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, City Criminal Courts, Red Hills, Nampally, Hyderabad (for short, the Tribunal).

2. For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Tribunal in the original petition.

3. The brief facts of the case are that the appellants are the father and elder sister of the deceased-Kotta Kasivishwanath. On 01.02.2004 the deceased and his mother were proceeding on motor cycle from Hyderabad to Miryalaguda. The deceased was driving the motor cycle Suzuki Samurai bearing No.AP 28 J 618 and the mother of the deceased was a pillion rider. When the motor cycle reached the outskirts of Ankireddipalem Village on National Highway No.9, one RTC bus bearing No.AP 11Z 712 of Nalgonda District was proceeding from Nalgonda towards Hyderabad dashed the motorcycle. Due to the said impact, the deceased and his mother both fell down and sustained multiple and grievous injuries and died on the spot. The accident was

caused due to the rash and negligent driving of the APSRTC bus bearing No.AP 11Z 712 by its driver. The deceased was aged about 24 years at the time of his death. He was hale and healthy. He was working as an Accountant in Ramalingeshwara Paddy Boiled Plant at Bangarugadda, Miryalaguda, Nalgonda District, and was drawing net salary of Rs.4,500/- per month and other perks. Hence, the petitioners filed the claim petition claiming compensation of Rs.7,00,000/- together with interest and costs.

4. Before the Tribunal, the respondents filed counter 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 of the driver of the RTC bus bearing No.AP 11Z 712 and awarded total compensation of Rs.1,42,000/-, with interest @ 7.5% per annum, i.e., Rs.1,30,000/- towards loss of income, Rs.2,000/- towards funeral expenses and Rs.10,000/- towards loss of estate. Dissatisfied with the quantum of compensation, the appellants filed the present appeal, seeking enhancement of the same.

6. Heard Sri N.Subba Rao, learned counsel appearing for the appellants and Sri N.Vasudeva Reddy, learned standing counsel appearing for the respondents/APSRTC.

7. Sri N.Subba Rao, learned counsel for the appellants, submitted that though P.W.1, who is the father of the deceased, deposed that the deceased, who is his son, was aged about 24 years and was working as Accountant in Ramalingeshwara Paddy Boiled Plant, Miryalaguda, Nalgonda District, and was drawing net salary of Rs.4,500/- per month at the time of the accident, the Tribunal erroneously disbelieved the same and fixed the notional income of the deceased at Rs.15,000/- per annum, which 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 as per the ratio laid down by the Hon'ble Supreme Court in **National Insurance Co. Ltd. Vs. Pranay Sethi¹**. He further submitted that in view of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Co. Ltd. Vs. Nanu Ram Alias Chuhru Ram & Others²**, the 1st appellant, being the father of the deceased, is entitled to Rs.40,000/- under the head of loss of filial consortium.

8. Sri N.Vasudeva Reddy, learned standing counsel appearing for the respondents/APSRTC, submitted that the Tribunal passed a well reasoned order and sought to dismiss the appeal.

¹ 2017(6) ALD 170 (SC)

² 2018 LawSuit (SC) 904

9. In view of the settled law laid down by the Apex Court on different issues in several decisions, the entire compensation needs to be re-determined. Though appellants filed Ex.A.8- salary certificate issued by Managing Partner of Ramalingeshwara Paddy Boiled Plant to the effect that the deceased was working as Accountant in the said Plant and was getting a salary of Rs.4,500/- per month, the Tribunal wrongly did not take it into consideration. In the circumstances of the case, this Court is inclined to take the monthly income of the deceased @ Rs.4,500/- per month. Apart from the same, the appellants are entitled to addition of 40% towards future prospects, as per the decision of the Hon'ble Supreme Court in **Pranay Sethi** (supra). Therefore, monthly income of the deceased comes to Rs.6,300/- (Rs.4,500/- + Rs.1,800/- (40%)), and after deduction of 50% towards personal expenses of the deceased since the deceased was unmarried at the time of the accident, the net monthly income of the deceased comes to Rs.3,150/- (Rs.6,300/- - Rs.3,150/- (50%)). Therefore, the annual income of the deceased comes to Rs.37,800/- (Rs.3,150/- X 12 months). Since the age of the deceased was 24 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 and others v. Delhi Transport Corporation and Another**³. Hence, the compensation under the head 'loss of income' comes to Rs.6,80,400/- (Rs.37,800/- X 18). The appellants are also

³ (2009) 6 SCC 121

entitled to Rs.30,000/- towards conventional charges, as per **Pranay Sethi's** case (supra). In the light of **Nanu Ram Alias Chuhru Ram's** case (supra), a sum of Rs.40,000/- is granted to the 1st appellant under the head of loss of filial consortium. Therefore, the total compensation comes to Rs.7,50,400/- (Rs.6,80,400/- + Rs.30,000/- + Rs.40,000/-).

10. Insofar as the fastening of liability is concerned, the observation made by the Tribunal is just and reasonable and needs no interference.

11. In the result, the Motor Accident Civil Miscellaneous Appeal is allowed enhancing the compensation amount awarded by the Tribunal from Rs.1,42,000/- to Rs.7,50,400/- payable by both the respondents jointly and severally. The enhanced amount shall carry interest @ 7.5% per annum from the date of petition till realization. As the claimants claimed only Rs.7,00,000/-, they are directed to deposit deficit Court fee before the Tribunal. The respondents are directed to deposit the enhanced amount along with proportionate costs and interest within two (02) months from the date of receipt of a copy of this order. On such deposit, the appellants are permitted to withdraw their respective shares as awarded by the Tribunal, subject to payment of deficit court fee. No costs.

Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 16th October, 2019
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