

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.725 OF 2006

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 19.12.2005 passed in M.V.O.P.No.1920 of 2004 by the Motor Vehicle Accident Claims Tribunal-cum-XXI Additional Chief Judge, 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 husband and daughter of the deceased-Kotta Nagalakshmi. On 01.02.2004, Kotta Kasi Viswanath and his mother Kotta Nagalakshmi were proceeding on motor cycle from Hyderabad to Miryalaguda. Kotta Kasi Viswanath was driving the motor cycle Suzuki Samurai bearing No.AP 28 J 618 and the deceased, who is the mother of Kotta Kasi Viswanath, 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 Kotta Kasi Viswanath and the deceased 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 45 years at the time of her death. She was hale and healthy and was working as Cashier in Vijaya Dresses, K.R.Estates, Miryalguda and drawing net salary of Rs.3,000/- per month and other perks. Hence, the petitioners filed the claim petition claiming compensation of Rs.5,00,000/- 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.3,39,000/-, with interest @ 7.5% per annum, i.e., Rs.3,12,000/- towards loss of income, Rs.2,000/- towards funeral expenses, Rs.10,000/- towards loss of estate and Rs.15,000/- towards loss of consortium. 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 Tribunal erred in granting the compensation. He further submitted that the appellants are also entitled to addition of 25% 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 Sethi**¹.

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.

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 Ex.A.8-salary certificate of the deceased shows that deceased was working as Cashier in Vijaya Dresses, K.R.Estates, Miryalguda and drawing monthly salary of Rs.3,500/- per month, but since P.W.1-husband of the deceased deposed that the deceased was earning Rs.3,000/- per month at the time of the accident, the Tribunal has considered the same. In the circumstances of the case, this Court is also inclined to consider the same for the purpose of determining the compensation. Apart from the same, the appellants are entitled to addition of 25% towards future prospects, as per the decision of the Hon'ble Supreme Court in **Pranay Sethi** (supra). Therefore, monthly income of the

¹ 2017(6) ALD 170 (SC)

deceased comes to Rs.3,750/- (Rs.3,000/- + Rs.750/- (25%)), and after deduction of 1/3rd towards personal expenses of the deceased since there are two family members, the net monthly income of the deceased comes to Rs.2,500/- (Rs.3,750/- - Rs.1,250/- (1/3rd)). Therefore, the annual income of the deceased comes to Rs.30,000/- (Rs.2,500/- X 12 months). Since the age of the deceased was 45 years at the time of the accident, the multiplier for the age of the deceased is '14' as per the decision reported in **Sarla Verma and others v. Delhi Transport Corporation and Another**². Hence, the compensation under the head 'loss of income' comes to Rs.4,20,000/- (Rs.30,000/- X 14). The appellants are also entitled to Rs.70,000/- towards conventional charges, as per **Pranay Sethi's** case (supra). Therefore, the total compensation comes to Rs.4,90,000/- (Rs.4,20,000/- + Rs.70,000/-).

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 partly allowed enhancing the compensation amount awarded by the Tribunal from Rs.3,39,000/- to Rs.4,90,000/- 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. The respondents are directed to deposit the enhanced amount along with

² (2009) 6 SCC 121

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. No costs.

Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 16th October, 2019

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