

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.853 OF 2006

AND

CROSS OBJECTIONS (SR).No.23609 of 2006

COMMON JUDGMENT:

This appeal is preferred by the appellants/respondents 2 & 3/insurance company questioning the order of the Chairman, Motor Vehicle Accident Claims Tribunal (District Court, at Warangal (for short, the Tribunal) in O.P.No.1027 of 2004 dated 17.11.2005. The respondents 1 to 4/claimants also filed cross-objections being aggrieved by the order of the Tribunal.

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

3. The brief facts of the case are that the 1st petitioner is the wife and petitioners 2 to 4 are the daughters of the deceased-Yashoju Laxminarayana. The deceased was 48 years old and was an employee in South Central Railways working at Secunderabad Railway Station and drawing a salary of Rs.9,200/- per month and all the petitioners are dependents on his earnings. On 01.07.2001 at about 5.00 p.m., the deceased was proceeding to his house on his TVS motor cycle and by the time he reached near petrol pump at R.T.C. colony on Suryapet main road in Jangaon, a jeep bearing No.AP 1T 8973 driven by the 1st respondent in a rash and negligent manner with high speed dashed against the motorcycle of the deceased in the opposite direction. As a result, the deceased fell down on the road along with motorcycle and sustained internal and

external injuries all over the body. Immediately after the accident, he was shifted to Government Hospital, Jangaon, where he succumbed to the injuries at 5.35 p.m. while undergoing treatment. Due to the sudden and untimely death of the deceased, the 1st respondent lost her partner and petitioners 2 to 4 lost the love and affection of their father. The accident occurred only due to the rash and negligent driving of the 1st respondent, who is owner-cum-driver of the offending jeep. Hence, the petitioners filed the claim petition claiming compensation of Rs.10,00,000/-, payable by respondents 1 to 3, being the owner and insurer of the offending jeep.

4. In the claim petition, the 2nd respondent remained *ex parte*. The respondents 1 & 3 filed separate counters denying the allegations and contended that the amount claimed by the claimants is highly excessive and that it is not liable to pay any compensation and therefore prayed to dismiss the claim petition.

5. After considering the oral evidence of P.Ws.1 to 3 and the documentary evidence of Exs.A-1 to A-7, the Court below came to the conclusion that the accident occurred due to the rash and negligent driving of the 1st respondent and awarded total compensation of Rs.6,80,400/-, i.e., Rs.6,62,400/- towards loss of dependency, Rs.15,000/- towards loss of consortium and Rs.3,000/- towards funeral expenses, with interest @ 7.5% per annum from the date of petition till the date of deposit, payable by all the respondents. Aggrieved by the said order, the

appellants/respondents 2 & 3/insurance company filed the present appeal and respondents 1 to 4/claimants filed the cross objections.

6. Heard.

7. With regard to computation of the quantum of compensation is concerned, as per Ex.A-6-Salary Certificate, the deceased was an employee in South Central Railways working at Secunderabad Railway Station and drawing a salary of Rs.9,195/- and if taxes is deducted, the salary of the deceased would be Rs.9,000/-. Therefore, this Court is inclined to consider the same as monthly salary of the deceased. Apart from the same, since the deceased worked in South Central Railways and aged about 48 years as on the date of the accident, the respondents 1 to 4/claimants are entitled to addition of 30% towards future prospects, as per the decision of the Hon'ble Supreme Court reported in **National Insurance Co. Ltd. Vs. Pranay Sethi**¹. Therefore, monthly income of the deceased comes to Rs.11,700/- (Rs.9,000/- + Rs.2,700/- (30%)), and after deduction of 1/4th towards personal deductions of the deceased since there are four family members of the deceased, the monthly income of the deceased would come Rs.8,775/- (Rs.11,700/- - Rs.2,925/- (1/4)). Therefore, the annual income of the deceased comes to Rs.1,05,300/- (Rs.8,775/- X 12 months). The multiplier for the age of the deceased is '13'. Hence, the compensation under the head of 'loss of dependency' comes to

¹ 2017(6) ALD 170 (SC)

Rs.13,68,900/- (Rs.1,05,300/- X 13). The appellants are also entitled to Rs.70,000/- towards conventional charges, as per **Pranay Sethi's** case (supra). In view of the judgment of the Hon'ble Supreme Court reported in **Magma General Insurance Co. Ltd. Vs. Nanu Ram Alias Chuhru Ram & Others²**, the 3rd respondent/3rd claimant, being the minor daughter of the deceased, is entitled to Rs.50,000/- towards loss of love and affection and the same is awarded. Therefore, the total compensation comes to Rs.14,88,900/- (Rs.14,38,900/- + Rs.70,000/- + Rs.50,000/-). Insofar as the 4th respondent/4th claimant, who is the married daughter of the deceased, is concerned, the amount of Rs.50,000/- awarded by the Tribunal is undisturbed.

8. In the result, the Motor Accident Civil Miscellaneous Appeal is dismissed and the Cross Objections are allowed enhancing the compensation amount awarded by the Tribunal from Rs.6,80,400/- to Rs.14,88,900/-, payable by all 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.10,00,000/-, 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 respondents 1 to 4/claimants 1 to

² 2018 LawSuit (SC) 904

4 are permitted to withdraw their respective shares as awarded by the Tribunal, subject to payment of deficit court fee. It is made clear that the amount of Rs.50,000/- awarded by the Tribunal to the 4th respondent/4th claimants remains the same. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 31st October, 2019

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