

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

MACMA NO. 2168 OF 2009

JUDGMENT:

This appeal is directed against the Judgment dated 27.05.2004 passed by the Motor Accidents Claims Tribunal-cum-I-Additional District Judge, Adilabad (for short 'the Tribunal), in O.P.No.644 of 2001 whereby the Tribunal awarded compensation of Rs.7,65,200/- on account of the death of the deceased Atketi Sinivas in a motor vehicle accident that occurred on 26.02.2001.

2. For the sake of convenience, the parties herein are referred to as arrayed in the Court below.

3. Being dissatisfied with the quantum of Award passed by the Tribunal, the legal heirs of the deceased filed this appeal seeking enhancement of compensation.

4. The brief facts of the case are hereunder:

On 26.02.2001, at about 03.20 PM, while the deceased along with one Upender, who was riding the motorcycle was proceeding on a Kawasaki Bajaj motorcycle bearing No. AP 1E-1004 to Godavarikhani and when they reached near Sisrinagar, Mancherla, the driver of the lorry bearing No. ADT 8300 came in opposite direction at high speed in a rash and negligent manner and dashed the motorcycle, due to which the deceased and another fell down from the motor cycle and the deceased sustained crush injuries and died on the spot while the rider of the

motorcycle received multiple injuries. The deceased was hale and healthy and 34 years old on the date of accident.

5. The petitioners, who are wife, sons and aged parents of the deceased, filed claim petition before the Tribunal invoking the provisions under Section 166 (1)(c) of the Motor Vehicles Act claiming compensation of Rs.10,00,000/-. The Tribunal, as per Ex.A.5- salary certificate issued by the Medical Officer, UPHC Kundaram taken the income of the deceased at Rs.5,900/- and deducted 1/3rd towards his personal expenses as per the decision of the Apex Court in SARALA VERMA AND OTHERS v DELHI TRANSPORT CORPORATION AND ANOTHER¹ and applied multiplier '16' as per second schedule of the Motor Vehicles Act and awarded compensation of Rs.7,65,200/- towards loss of dependency.

6. Learned counsel for the appellants submitted that the Tribunal has not taken the loss of future prospectus at 50%, as per decision of the Apex Court in National Insurance Co. Ltd. Vs. Pranay Sethi² and also not awarded adequate compensation towards loss of consortium, loss of estate and funeral expenses. Therefore, the appellants are entitled for enhancement of compensation. There is no dispute with regard to the manner of accident and involvement of the vehicle.

7. Admittedly, the Tribunal has not taken the future prospects of the deceased, who was a Government employee working in

¹ 2009 ACJ 1298

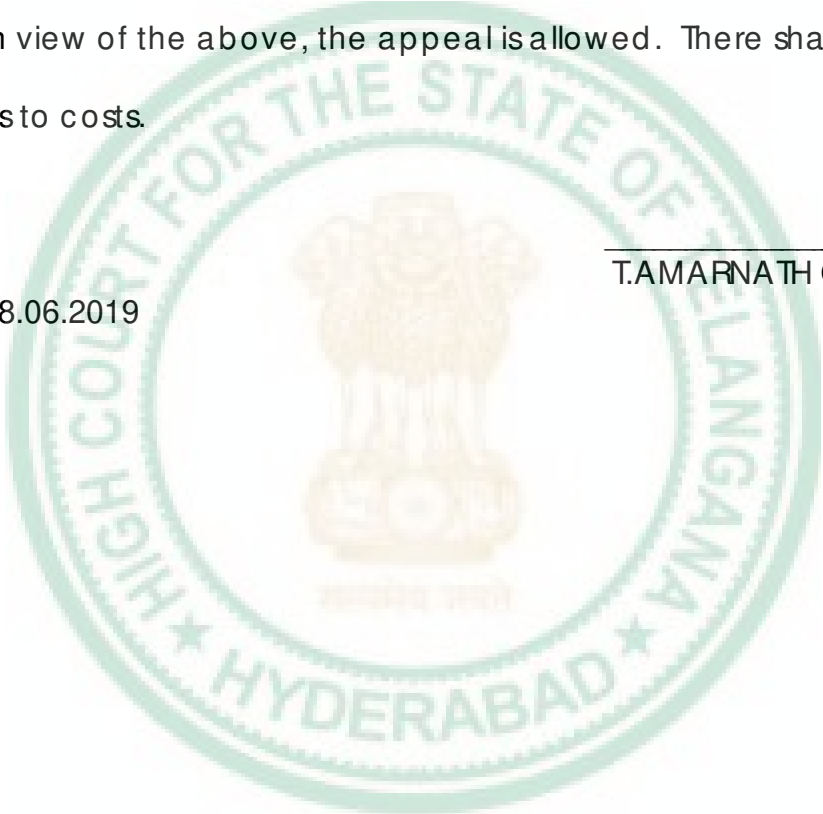
² 2017(6) ALD 170 (SC)

Government Hospital. Relying on the decision of Pranay Sethi's case referred supra, the future prospects @ 50% can be added to the salary of the deceased as the deceased was 34 years only as on the date of accident. As Ex.A.5 – salary certificate, the monthly income of the deceased is Rs.5,900/- and when 50% is added to his salary towards future prospectus as per Pranay Sethi's case referred supra, it comes to (Rs.5,900/- + Rs. 2,950/-) Rs.8,850/-. As per the decision of the Apex Court in *Sarala Varma* (1st cited), 1/4th has to be deducted, where the number of dependants is more than three in number. In the instant case, the claimants are five in number. Therefore, 1/4th has to be deducted and the monthly income of the deceased comes to Rs.6,638/- (Rs.8,850/- minus Rs.2,212/-). Thus, the annual income of the deceased comes to Rs.79,656/- (Rs.6,638/- x 12). Applying the relevant multiplier '16', as the age of the petitioner taken as 34 and as per the *SARALA VERMA's* case referred supra, the loss of dependency can be quantified at Rs.12,74,496/- (Rs.79,656 x 16). As per Pranay Sethi's case referred supra the appellants are entitled for conventional charges @ Rs.70,000/-. Thus, the appellants are entitled for a total compensation of Rs.13,44,496/- (Rs. 12,74,496/- + Rs.70,000/-) (Rupees thirteen lakhs forty four thousand four hundred and ninety six only). The enhanced compensation amount shall carry 7.5% interest from the date of petition till the date of realization. The respondents 1 and 2 are directed to deposit the compensation amount jointly and severally within three months from the date of

this judgment. The claimants are entitled to withdraw the compensation amount soon after the deposit is made as per their proportionate share. The claimants have to pay deficit court fee on over and above Rs.10,00,000/- and if the deficit court fee not paid as per Rule 475 of the M.V. Rules before the Tribunal, the claimants cannot be permitted to execute for the enhanced amount.

8. In view of the above, the appeal is allowed. There shall be no order as to costs.

Date: 18.06.2019
kvrn

T.AMARNATH GOUD, J