THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

MACMA NO. 729 OF 2006

JUDGMENT:

This appeal is directed by the claimants against the order and decree dated 10.10.2005 passed in M.V.O.P.No.659 of 2001 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, Hyderabad (for short 'the Tribunal), whereby the tribunal granted compensation of Rs.2,20,000/- in a motor vehicle accident that occurred on 10.01.2001 while the deceased Rajesh P.Chandani was proceeding slowly and cautiously on his Yamaha motor cycle bearing No.AP9B 8724 from Sri Babu Jagjeevanram Statue, Nizam College side towards A.R.Petrol Pump, Public Gardens, when he reached in front of SAAP office, near D gate of L.B. Stadium at about 04.30 p.m., RTC bus bearing No. AP 10 Z 8192 of BHEL depot going towards Babu Jagjeevanram statue came in opposite direction in a rash and negligent manner, dashed against motor cycle of the deceased, and then dashed against the compound wall of L.B.Stadium, immediately the deceased was shifted to CDR Hospital at Hyderguda, where the duty doctors declared as brought dead, as against the claim of Rs.10,00,000/-.

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

3. Before the tribunal, the respondents filed their common counter denying the claim petition.

4. In order to prove the case of the claimants, before the tribunal, PWs.1 to 3 were examined and marked Exs.A1 to A.4 and Exs.X.1 to X.6. No oral or documentary evidence is adduced on behalf of the respondents.

5. Basing on the material available on record, the tribunal granted compensation of Rs.2,20,000/- with interest at 7.5% per annum from the date of petition till the date of realization and directed the respondents to deposit the compensation amount within two months from the date of judgment.

6. Learned counsel for the claimants submitted that the compensation granted by the tribunal is very meager and that the tribunal erred in taking the monthly income of the deceased at Rs.24,000/- per annum though the deceased earning Rs.62,000/ per annum as per Ex.A.11-income tax return and that the tribunal erred in considering the future prospects of the deceased and that the interest granted by the tribunal is very low and hence, prayed to grant just and proper compensation.

7. Learned standing counsel for the insurance company submitted that the order passed by the tribunal is well considered in all aspects and needs no interference of this Court and prayed to dismiss the appeal.

8. There is no dispute with regard to the manner of accident and involvement of the vehicle. As per Ex.A6-charge sheet, PW.2 and one T.Srikanth shifted the deceased to CDR Hospital,

Hyderguda and that police recorded his statement. PW.1 stated that the deceased is aged 26 years and filed Ex.A.9-income tax return that the deceased running business under the name and style of Balaji Garments and annual income is shown as Rs.64,000/- for the year 2000-2001. The accident occurred on 10.01.2001. Therefore, the annual income of the deceased can be taken as Rs.64,000/- and accordingly, the same is considered. As per the decision of the Apex Court in **Sarala Verma and others v Delhi Transport Corporation and another[1],** since the claimants are two in number, 1/3rd of personal expenses have to be deducted. As per the decision of **Sarala Verma's** case referred supra, when the age of the deceased is 26 years, the relevant multiplier applicable is '17'. The deceased is self employed, as per the decision of the apex Court in **National Insurance Company Limited v Pranay Sethi[2]** the claimants are entitled for 40% future prospects when the age of the deceased is 26 years bachelor and Rs.30,000/- under conventional heads can be granted which is just and proper. As per the decision of the Apex Court in **Magma General Insurance Co.Ltd. v Nanu Ram Alias Chuhru Ram[3],** the father and mother of the deceased are entitled for Rs.40,000/- each as filial. The annual income of the deceased comes to Rs.44,800/- (Rs.64,000/- minus 50% (Rs.32,000/-) plus 40% (Rs.12,800/-). Applying relevant multiplier '17, loss of dependency comes to Rs.7,61,600/- (Rs.44,800/- x 17). Thus, the claimants are entitled for total compensation of Rs.8,71,600/- (Rs.7,61,600/-

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[1] 2009 ACJ 1298
[2] 2017(6) 170 (SC)
[3] 2018 Law Suit (SC) 904

+ Rs.80,000/- + Rs.30,000). The enhanced compensation shall carry interest @ 7.5% per annum from the date of petition till the date of realization. Respondents 1 and 2 are directed to deposit the compensation amount within three months from the date of this judgment. The claimants are entitled to withdraw the compensation amount soon after the deposit is made.

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

Miscellaneous petitions if any, shall stand closed.

T.AMARNATH GOUD,J

Date: 23-10-2019
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