THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

MACMA NO. 2424 OF 2009
AND
CROSS OBJECTIONS SR.NO.27610 OF 2009

COMMON JUDGMENT:

The appeal and the cross objections are directed against the order dated 27.10.2007 passed by the Motor Accidents Claims Tribunal-cum-I Additional Chief Judge, City Civil Court, Secunderabad (for short 'the Tribunal), in MVO.P.No.176 of 2006 whereby the Tribunal awarded compensation of Rs.7,23,914/- as against the claim of Rs.25,00,000/- on account of the death of the deceased M.Santosh Yadav, aged 27 years, in a motor vehicle accident that occurred on 19.02.2006.

2. M.A.C.M.A.No.2424 of 2009 is filed by APSRTC on the ground that the compensation granted by the Tribunal is on higher side and cross objections are filed by the claimants seeking enhancement of compensation on the ground that the compensation granted by the Tribunal is on lower side, as the deceased is working in Swift Response Pvt. Ltd and was earning Rs.10,000/- per month and that they lost their only source of income.

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

4. The claimants, who are father, mother and sister of the deceased, filed claim petition before the Tribunal seeking compensation of Rs.25,00,000/- on the ground that the deceased was aged 27 years and was earning Rs.10,000/- per month. The Tribunal has taken the income of the deceased at Rs.8,913/- per month on the four months average and monthly break up as per Ex.A.16 – bank statement and Ex.A.12 – salary certificate after deducting 40% of his salary towards pleasure and necessities and applying the multiplier '11' as per age above 50 years, but not exceeding 55 years arrived dependency at Rs.7,05,914/-, Rs.2,000/- towards funeral expenses, Rs.1,000/- towards transport charges and Rs.15,000/- towards loss of estate comprising loss of expectation of life, pain and suffering and loss of amenities, totaling to Rs.7,23,914/-.

5. The Tribunal after considering the evidence of witnesses and charge sheet filed by the claimants held that the accident took place on account of the rash and negligent driving of the driver of the bus bearing No.AP11Z 5368 belonging to the respondent/APSRTC.

6. Learned counsel for APSRTC submitted that the income taken by the Tribunal is on higher side and without any basis.

7. There is no dispute with regard to the manner of accident and involvement of the vehicle.

8. Learned counsel submitted that the subject matter of the accident arising out of the same accident, which was dealt with by this Court and decided on 31.07.2018 in MACMA No.2877 of 2009.

9. Learned counsel for the claimants submitted that as per the decision of **SARALA VARMA AND OTHERS v DELHI TRANSPORT CORPORATION AND ANOTHER**[1] the age of the deceased is to be taken into consideration and the relevant multiplier is '17', but the Tribunal has applied '11' as the age above 50 years, but not exceeding 55 years and that the compensation granted by the Tribunal is very low. Therefore, requires enhancement.

10. In order to prove the income of the deceased, the claimants filed Ex.A.9 – original passport, Ex.A.10 – original identity card, Ex.A.11 – original appointment letter, Ex.A.12 – original salary certificate and Ex.A.6 –statement of account of the deceased, which shows that the deceased was working in Swift Response Pvt. Ltd and was earning Rs.10,000/- per month.

[1] 2009 ACJ 1298

11. A perusal of the grounds of cross objections, the claim was made towards future prospects of the earnings of the deceased and as the deceased was a bachelor, instead of taking age of the deceased for the purpose of calculation of loss of earnings, the Tribunal has taken the age above 50 years, but not exceeding 55 years. In fact, the Tribunal has deducted 40% from the total income towards personal expenses of the deceased, where as in the light of the judgment of the Apex Court in **Sarala Verma's case** (first supra), 50% of total income has to be deducted towards personal expenses of the deceased.

12. In view of the age of the deceased, who was aged about 27 years by the date of accident, in the light of the ratio laid down in **National Insurance Company Limited v Pranay Sethi**[2] the cross-objectors are entitled for future prospects at 40% of the annual income of the deceased.

13. For the foregoing reasons, the cross-objectors/claimants are entitled for compensation as follows:

Annual salary (Rs.8,913/- x 12)	Rs.1,06,956/-
40% of the annual income of the deceased towards future prospects.	Rs. 42,782/-
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Annual Income	Rs.1,49,738/-
Being bachelor 50% is deducted, comes to	Rs. 74,869/-

[2] 2017 SCC Online SC 1270

Thus, loss of dependency comes to (Rs.74,869/- x 17)	Rs.12,72,773/-
Conventional Heads	Rs. 30,000/-

Thus, total compensation comes to	Rs.13,02,773/-

14. Subject to above enhancement of compensation from Rs.7,23,914/- to Rs.13,02,773/-, the appeal filed by RTC is dismissed and the Cross objections are partly allowed. The insurance company is directed to deposit the enhanced compensation with interest @ 6% per annum from the date of petition till the date of realization within three months from the date of the judgment. The claimants are entitled to withdraw the same soon after the deposit is made as apportioned by the Tribunal. There shall be no order as to costs.

Miscellaneous petitions if any, pending in this appeal shall stand closed.

T.AMARNATH GOUD, J

11.06.2019
kvrm