

HONOURABLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.1871 of 2006

JUDGMENT:

This appeal is filed by the claimants under Section 173 of the Motor Vehicles Act aggrieved by the orders passed by the Chairman, Motor Accidents Claims Tribunal-cum-Principal District Judge, Ranga Reddy District at L.B. Nagar (for short 'the Tribunal') in M.O.P.No.95 of 2004 dated 05.06.2006.

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

3. The brief facts of the case are that on 18.09.2003 at about 22.00 hours, on the way from his office to his house, the deceased reached a crossing on the road near Shalimar Hotel at Kukatpally bus stop, one bus bearing No.AP-11-Z-1971, which was driven by its driver in a rash and negligent manner, dashed the deceased, due to which he sustained bleeding injuries and he was shifted to Remedy Hospital, Kukatpally and he was succumbed to the injuries on 19.09.2003 while undergoing treatment. According to the claimants, the deceased is the sole bread earner of the family and they being the parents of the deceased wholly depend upon the deceased.

4. The Tribunal has examined PWs.1 & 2 on behalf of the claimant and marked Exs.A1 to A9 and on behalf of the respondents, none were examined and no documents were marked. The Tribunal after framing the issues, allowed in part the claim of the claimant by awarding the compensation of Rs.2,73,000/- against the claim of Rs.5,00,000/-.

5. Aggrieved by the meager amount awarded by the Tribunal, the claimants preferred the present appeal with the contentions that the Tribunal ought to have awarded the amount as claimed by the claimants and sought for enhancement of the amount by allowing the appeal. None appeared for the respondents.

6. So far as the quantum of compensation concerned, this Court considers the income of the deceased at Rs.4,500/- per month as rightly taken by the Tribunal and as per the expression in **National Insurance Company Limited Vs. Pranay Sethi**¹, the claimant being self employed and aged about 25 years, 40% future prospects can be taken into consideration, which comes to Rs.1,800/-, in all claimant monthly income comes to Rs.6,300/-. The deceased being bachelor, 50% has to be deducted towards personal expenses of the deceased from his income that comes to Rs.3,150/- (50% of Rs.6,300/-). The age of the deceased is 25 years and appropriate multiplier is '18' as per the expression of **Sarla Varma Vs. Delhi Transport Corporation**². The loss of earnings of the deceased comes to Rs.3,150/- x 12 x 18 = Rs.6,80,400/-. As per **Pranay Sethi supra**, the deceased being bachelor, the claimants are entitled to conventional heads at Rs.30,000/- and as per **Magma General Insurance Company Limited Vs. Nanu Ram Alias Chuhru Ram**³, the claimants being parents of the deceased are entitled to Rs.40,000/- each towards

¹ 2017 (6) SCC 170

² 2009 (6) SCC 121

³ 2018 Lawsuit (SC) 904

filial which comes to Rs.80,000/-, in all the claimants are entitled to the total compensation of Rs.7,90,400/-.

7. Accordingly and in the result, this Appeal is allowed by enhancing the amount awarded by the Tribunal to Rs.7,90,400/- from Rs.2,73,000/- with rate of interest at 7.5% per annum from the date of petition till the date of realization. Though the claim is made for Rs.5,00,000/- in order to grant just and proper compensation for the reasons indicated above and in the light of the decision of the Apex Court in **Nagappa v Gurudayal Singh**⁴ the compensation awarded can be more than the claim. Both the respondents are directed to deposit the compensation amount jointly and severally within three months from the date of this judgment. The claimants have to pay deficit court fee on over and above the claim amount 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. No costs.

Miscellaneous petitions if any shall stand closed.

T.AMARNATH GOUD, J

Date: 17.10.2019
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⁴ 2003(2) SCC 274