

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.2016 OF 2006

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Judgment and Decree dated 03.07.2006 passed in O.P.No.2723 of 2003 by the XXII Additional Chief Judge-cum-Motor Accident Claims Tribunal, City Criminal Court at Hyderabad (for short, the Tribunal).

2. The brief facts of the case are that appellant No.1 is the husband and appellant No.2 is the mother of the deceased, E.Radha. On 01.03.2003, while the deceased and her husband were proceeding on scooter bearing No.AP13A 6282 towards Hyderguda side, and when they reached near Mehidipatnam Kaman, an RTC bus bearing No.AEZ 290 came in a rash and negligent manner with high speed and hit the scooter from its back. In the said accident, the deceased fell down and came under rear wheel of the bus and sustained grievous injuries. Immediately, she was shifted to Apollo Hospital for treatment, but she died while undergoing treatment. The claimants filed aforesaid OP claiming compensation of Rs.4,00,000/- against the respondent-RTC for the death of the deceased.

3. Before the Tribunal, the respondent filed counter denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

4. After considering the oral and documentary evidence on record, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the bus and awarded total compensation of Rs.3,53,400/- under various heads with interest @ 7.5% per annum. Dissatisfied with the quantum of compensation, the appellants filed the present appeal, seeking enhancement of the same.

5. Sri Molugu Krishna Reddy, learned counsel for the appellants, submitted that though the appellants produced the evidence to show that the deceased was earning Rs.4,000/- per month by doing tailoring work, the Tribunal erroneously fixed the income of the deceased at Rs.2,400/- per month and the same is very low. He further submitted that the appellants are also entitled to addition of 40% on the income of the deceased towards future prospects and also Rs.70,000/- towards conventional charges, as per the ratio laid down by the Hon'ble Supreme Court in **National Insurance Co. Ltd. Vs. Pranay Sethi**¹. He further submitted that appellant No.2, being the mother of the deceased, is entitled to Rs.40,000/- towards loss of filial consortium, as per the decision of the Hon'ble Supreme Court in **Magma General Insurance Co.Ltd. Vs.Nanu Ram Alias Chuhru Ram**². He further submitted that the age of the deceased is 21 and the appropriate multiplier for calculation of compensation is '18' as per **Smt.Sarla Varma Vs.**

¹ 2017(6) ALD 170 (SC)

² 2018 Law Suit (SC) 904

Delhi Transport Corporation³, but the Tribunal wrongly adopted the multiplier '17'. Basing on the above submissions, he seeks to enhance the compensation.

6. N.Vasudeva Reddy, learned Standing Counsel for the respondent, submitted that the Tribunal passed a well reasoned order and sought to dismiss the appeal.

7. Though no proof of income of the deceased was filed, as the deceased is stated to be doing tailoring work, this Court is inclined to fix the income of the deceased at Rs.4,000/- per month notionally. Apart from the same, the appellants are entitled to addition of 40% towards future prospects, as per **Pranay Sethi's** case (supra). Therefore, monthly income of the deceased comes to Rs.5,600/- (Rs.4,000/- + Rs.1,600/-), and after deduction of 1/3rd, as the dependants are two in number, the annual income comes to Rs.44,796/- (Rs.3,733/- X 12). As the deceased was aged 21 years, the appropriate multiplier is '18'. Hence, the compensation under the head 'loss of dependency' comes to Rs.8,06,328/- (Rs.44,796/- X 18). Apart from the same, the appellants are entitled to Rs.70,000/- towards conventional heads, as per **Pranay Sethi's** case (supra). As appellant No.2, being the mother of the deceased, is entitled to Rs.40,000/- towards filial consortium, as per **Nanu Ram Alias Chuhru Ram's** case (supra). Therefore, the total

³ 2009(6) SCC 121

compensation comes to Rs.9,16,328/-, which is rounded to Rs.9,16,000/- (Rs.8,06,328/- + Rs.70,000/- + Rs.40,000/-).

8. In the result, the Motor Accident Civil Miscellaneous Appeal is allowed, enhancing the compensation amount awarded by the Tribunal from Rs.3,53,400/- to Rs.9,16,000/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of claim petition till realization. As the claimants claimed only Rs.4,00,000/-, they are directed to deposit deficit Court fee before the Tribunal. Miscellaneous petitions pending, if any, shall stand closed. No costs.

Date: 29.10.2019
TJMR

T.AMARNATH GOUD, J

