THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.2018 OF 2006

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 03.04.2006 passed in O.P.No.1402 of 2003 by the II Additional Metropolitan Sessions Judge-cum-XVI Additional Chief Judge, Hyderabad (for short, the Tribunal).

2. The brief facts of the case are that appellant Nos.1 and 2 are the son and daughter of the deceased, S.Laxmamma. On 08.09.2002 at about 2.15 pm., while the deceased, along with others, was proceeding in auto bearing No.AP13V 5481 from Hyderabad towards Ibrahimpatnam, and when the auto reached near Injapur village bridge, one RTC Bus bearing No.AP10Z 9418 came in a rash and negligent manner at high speed and dashed the auto in opposite direction and dragged the auto to some distance, due to which, the deceased died on the spot. The claimants filed aforesaid OP claiming compensation of Rs.2,00,000/- against the respondents-RTC, for the death of the deceased.

3. Before the Tribunal, the respondents 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.1,35,000/- i.e.,

Rs.1,30,000/- towards death of the deceased and Rs.5,000/- towards transportation and funeral charges, 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.3,000/- per month as a vegetable vendor, the Tribunal erroneously fixed the income of the deceased at Rs.15,000/- per month and the same is very low. He further submitted that the appellants are also entitled to addition of 25% on the income of the deceased towards future prospects and also Rs.30,000/- towards conventional charges, as per the ratio laid down by the Hon'ble Supreme Court in **National Insurance Co. Ltd. Vs. Pranay Sethi[1].**

6. Sri N.Vasudeva Reddy, learned counsel for the respondents, submitted that as the appellants did not file any proof of income of the deceased, the Tribunal rightly fixed the notional income of the deceased at Rs.15,000/- per annum, which is just and proper. He further submits that the Tribunal passed a well reasoned order and there are no grounds to interfere with the same and prayed to dismiss the appeal.

7. Though no proof of income of the deceased was filed, as the deceased is stated to be a vegetables vendor, I am inclined to fix her

[1] 2017(6) ALD 170 (SC)

income at Rs.3,000/- per month notionally. Apart from the same, the appellants are entitled to addition of 25% towards future prospects, as per **Pranay Sethi**'s case (supra). Therefore, monthly income of the deceased comes to Rs.3,750/- (Rs.3,000/- + Rs.750/-), and after deduction of 1/3rd, as the dependants are two in number, the annual income comes to Rs.30,000/- (Rs.2,500/- X 12). As the deceased was aged 46 years, the appropriate multiplier is '13'. Hence, the compensation under the head 'loss of dependency' comes to Rs.3,90,000/- (Rs.30,000/- X 13). Apart from the same, the appellants are entitled to Rs.30,000/- towards conventional heads, as per **Pranay Sethi**'s case (supra). Therefore, the total compensation comes to Rs.4,20,000/- (Rs.3,90,000/- + Rs.30,000/-).

8. In the result, the Motor Accident Civil Miscellaneous Appeal is allowed, enhancing the compensation amount awarded by the Tribunal from Rs.1,35,000/- to Rs.4,20,000/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of claim petition till realization. As the claimants claimed only Rs.2,00,000/-, they are directed to deposit deficit Court fee before the Tribunal. Miscellaneous petitions pending, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 28.10.2019
TJMR