

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.2920 OF 2005

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 25.11.2004 passed in O.P.No.61 of 2003 by the Chairman, Motor Vehicle Accident Claims Tribunal-cum-III Additional District Judge at Karimnagar (for short, the Tribunal).

2. The brief facts of the case are that the 1st claimant is the wife of deceased-Nalla Vallabha Reddy, 2nd claimant is the daughter and 3rd claimant is the son of the deceased. On 19.06.2002, when the deceased was proceeding in an auto trolley for taking his paddy, when the trolley reached Durgammagadda, outskirts of Alugunoor, one RTC Bus bearing No.AP-10-Z-7872 driven by the 1st respondent came in a rash and negligent manner with high speed and dashed to the auto trolley, as a result of which, the deceased died on the spot due to the injuries. The driver of the auto also died on the spot. The deceased was aged about 45 years and he was an agriculturist and he used to earn Rs.10,000/- per month from agriculture. The deceased used to contribute his total earnings to his family. Hence, the claimants filed the present claim petition claiming compensation of Rs.2,00,000/- payable by the respondents.

3. Before the Tribunal, respondents 1 & 2 filed separate written statements 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 1st respondent and actually computed the total compensation of Rs.2,74,000/-, but since the claimants have claimed only Rs.2,00,000/- compensation, the Tribunal restricted the same to Rs.2,00,000/-, with interest @ 9% per annum. Dissatisfied with the quantum of compensation, the appellants filed the present appeal, seeking enhancement of the same.

5. Admittedly, it is seen from the claim petition that the deceased was doing agriculture and earning Rs.10,000/- per month at the time of the accident, but the appellants have not filed any proof to show that the deceased was earning Rs.10,000/- per month as agriculturist. In the decision rendered by the Supreme Court in **Ramachandrappa v. The Manager, Royal Sundaram Aliance Insurance Company Limited**¹, a notional amount of Rs.4,500/- can be taken into consideration as monthly income of the deceased. Therefore, this Court is also inclined to take the notional income of the deceased @ Rs.4,500/- per month. Apart from the same, since the deceased was aged about 45 years at the time of the accident and he is self-employed, he is entitled to addition of 40% towards future prospects, as per the decision of the Hon'ble Supreme Court reported in **National Insurance Co. Ltd. v. Pranay Sethi**². Therefore, the monthly income of the deceased

¹ AIR 2011 Supreme Court 2951

² 2017(6) ALD 170 (SC)

comes to Rs.6,300/- (Rs.4,500/- + Rs.1,800/- (40%)). After deduction of 1/3rd towards personal expenses of the deceased since there are three members in the family of the deceased, the monthly income of the deceased comes to Rs.4,200/- (Rs.6,300/- - Rs.2,100/- (1/3rd)). Therefore, the annual income of the deceased comes to Rs.50,400/- (Rs.4,200/- X 12 months). Since the age of the deceased was 45 years at the time of the accident, the multiplier applicable for the age of the deceased is '14' as per the decision reported in **Sarla Verma and others v. Delhi Transport Corporation and Another**³. Hence, the compensation under the head 'loss of income' comes to Rs.7,05,600/- (Rs.50,400/- x 14). The appellants are also entitled to Rs.70,000/- towards conventional charges, as per **Pranay Sethi's** case (supra). Since claimants 2 & 3, who are daughter and son of the deceased, were minors at the time of the accident, in the light of the judgment of the Hon'ble Supreme Court reported in **Magma General Insurance Co. Ltd. v. Nanu Ram Alias Chuhru Ram & Others**⁴, a sum of Rs.50,000/- each is granted to them under the head of loss of filial consortium. The Transportation charges awarded by the Tribunal @ Rs.2,000/- remains un-changed. Therefore, the total compensation comes to Rs.8,77,600/- (Rs.7,05,600/- + Rs.70,000/- + Rs.1,00,000/- + Rs.2,000/-).

6. In so far as the enhancement of compensation granted by the Tribunal more than the claim, this Court is of the considered

³ (2009) 6 SCC 121

⁴ 2018 LawSuit (SC) 904

view that in view of the decision of the apex Court reported in **Nagappa v. Gurudayal Singh and others**⁵, there cannot be any embargo upon restriction restricting the compensation amount on par with the claim. In view of the fact that the Motor Vehicles Act is a beneficial legislation as held by the Apex Court in several judgments and on the facts and circumstances of the case, compensation can be granted more than the claim amount.

7. In the result, the Motor Accident Civil Miscellaneous Appeal is allowed enhancing the compensation amount awarded by the Tribunal from Rs.2,00,000/- to Rs.8,77,600/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of petition till realization. As the claimants claimed only Rs.2,00,000/-, they are directed to deposit deficit Court fee before the Tribunal. The respondents are directed to deposit the enhanced amount along with proportionate costs and interest within two (02) months from the date of receipt of a copy of this order. On such deposit, the appellants are permitted to withdraw their respective shares as awarded by the Tribunal, subject to payment of deficit court fee. No costs.

Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 3rd September, 2019
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⁵ (2003)2 SCC 274