THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.833 OF 2011
AND
M.A.C.M.A.No.1934 OF 2010

COMMON JUDGMENT:

Since both the appeals arise out of the same O.P, the same are heard and disposed of by way of this common judgment.

2. M.A.C.M.A No.833 of 2011 is filed by the Insurance company, whereas M.A.C.M.A No.1934 of 2010 is filed by the claimants against the order, dated 10.05.2010, passed in O.P.No.843 of 2008 by the Motor Accidents Claims Tribunal-cum-III-Additional Chief Judge, City Civil Court, Hyderabad (for short 'the Tribunal) granting compensation of Rs.7,34,000/- against the claim of Rs.10,00,000/-

3. For the sake of convenience, the parties herein after will be referred to as they were arrayed before the Tribunal.

4. The brief facts of the case are that on 05.09.2007 at about 1:00 PM while the deceased along with others were proceeding in Car bearing No.AP-11-AA-4129 and when they reached opposite to Allywin company on N.H.No.9 in the village outskirts of Patanchervu, the driver of the car drove the vehicle in a rash and negligent manner, lost control over it, due to which the car turned turtle, as a result of which the deceased fell down and sustained grievous injuries and died. A criminal case is also registered against the driver vehicle. Prior to the accident, the deceased was hale and healthy and earning Rs.5,00,000/- per annum. The first respondent is owner and 2nd respondent is insurer of the vehicle are jointly and severally liable to pay compensation.

5. Learned counsel for the insurance company contended that the Tribunal erred in holding that the insurance company is liable to pay the compensation; that the monthly income taken by the Tribunal is without any reliable evidence and that the compensation and interest granted by the Tribunal is on higher side and therefore, prayed to allow the appeal filed by the insurance company by setting the order of the Tribunal.

6. On the other hand, learned counsel for the claimants contended that the compensation granted by the Tribunal is very less and that the Tribunal erred in taking the income of the deceased at Rs.5 lakhs per annum as per the evidence of PW.1 and the documentary evidence i.e. education fee receipts, house rent receipts and that the amounts granted under the other heads is very low and prayed for enhancement of compensation.

7. The Motor Vehicles Act is a beneficial legislation as held by the Apex Court in several judgments. The deceased is a business man doing real estate business, in the absence of proof of income, the Tribunal has rightly taken the income of the deceased as Rs.6,000/- per month. Since the dependants are six in number, 1/3rd has to be deducted towards personal expenses of the deceased. As admitted by the petitioners, the age of the deceased by the time of accident is 40 years. As per decision of the Apex Court in **SARALA VERMA AND OTHERS v. DELHI TRANSPORT CORPORATION AND ANOTHER**[1], the relevant multiplier for the age group of 36 to 40 years is '15'. Apart from the same, the claimants are entitled for 40% towards future prospects as the age of the deceased is 40 years and also Rs.70,000/- towards conventional heads as per the decision of **National Insurance Company Ltd v. Pranay**

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[1] 2009 ACJ 1298

Sethi[2]. After adding 40% of the future prospects to the monthly income, it comes to Rs.8,400/- (Rs.6,000/- x 40/100), and after deducting 1/3 towards personal expenses, monthly income comes to Rs.5,600/-. The loss of dependency comes to Rs. 10,08,000/- (Rs.5,600- x 12 x 15). As per the decision of the Apex Court in **Magma General Insurance Co. Ltd v Nanu Ram Alias Chuhru Ram[3]**, claimants 4, 5 and 6, who are minor children are entitled for Rs.50,000/- each towards loss of filial. Thus, in all the claimants are entitled for compensation of Rs. 12,28,000/- (Rs.10,08,000/- + Rs.70,000/- + Rs. 1,50,000/-) with interest @ 7.5% per annum on the enhanced compensation from the date of petition till the date of realisation. Respondents 1 and 2 are jointly and severally liable to pay the compensation amount and they are directed to deposit the compensation amount with interest and costs within three months from the date of this judgment. On such deposit the claimants are entitled to withdraw the same as per their proportionate share. In all other aspects, the order passed by the Tribunal is well considered.

8. In view of the above, M.A.C.M.A.No.833 OF 2011 filed by the Insurance Company is dismissed and M.A.C.M.A.No.1934 of 2010 filed by the claimants is allowed. There shall be no order as to costs.

Miscellaneous petitions, if any pending in these appeals shall stands closed.

T.AMARNATH GOUD,J

DATE 07.08.2019

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[2] 2017(7) 170 (SC)
[3] 2018 Law Suit (SC) 904

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

HIGH COURT FOR THE STATE OF TELANGANA
HYDERABAD

M.A.C.M.A.No.833 OF 2011
AND
M.A.C.M.A.No.1934 OF 2010

Date:07.08.2019

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