THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.2725 OF 2008
AND
CROSS OBJECTIONS (SR) No.1010 OF 2016

COMMON JUDGMENT:

The appeal and the cross objections are arising out of the order dated 15.04.2008 in O.P.No.1103 of 2007 on the file of Chairman, Motor Accidents Claims Tribunal-cum-II Additional District Judge, Warangal (for short, the Tribunal).

2. For the sake of convenience, the parties shall be referred to as they are arrayed in the appeal.

3. The brief facts of the case are that respondent No.1 is the wife and respondent No.2 is the son of the deceased, Vishwanadham. On 02.10.1995 at about 8.00 am., while the deceased was waiting near Panchavat Office wall, Chinnakodepaka Village, the driver of the bus bearing No.AP9X 1697, without observing the persons standing the wall, taken reverse of the bus and dashed the deceased. In the said accident, the deceased fell down under the bus and sustained grievous injuries. The deceased was immediately shifted to Parkal Hospital, and from there, to MGM Hospital. While undergoing treatment, the deceased succumbed to injuries on 2/3.10.1995. Respondent Nos.1 and 2 herein filed aforesaid OP claiming compensation of Rs.5,00,000/- against the appellant-RTC for the death of the deceased.

3. Before the Tribunal, the appellant filed its 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 RTC bus and awarded total compensation of Rs.2,49,000/-, with interest @ 7.5% per annum. Challenging the same, the appellant filed the present appeal. Dissatisfied with the quantum of compensation, the respondents filed the cross objections, seeking enhancement of compensation.

5. Sri B.Mayur Reddy, learned Standing Counsel for the appellant-RTC, submitted that as the appellant had paid Rs.50,000/- to the respondents towards ex-gratia, the respondents are not entitled to receive any other compensation and sought to set aside the order of the Tribunal. He further submitted that though there was no evidence, the Tribunal wrongly fixed the income of the deceased at Rs.3,000/-, which is excessive.

6. Sri Ajay Kumar Madisetty, learned counsel for the respondents-cross objectors, submitted that though the respondents produced the evidence to show that the deceased was earning Rs.4,000/- per month by doing cultivation and toddy tapping, the Tribunal erroneously fixed the income of the deceased at Rs.3,000/- per month and the same is very low, as per the

judgment of the Hon'ble Supreme Court in **Ramachandrappa Vs. Royal Sundaram Alliance Insurance Co. Ltd.**[1]. He further submitted that the appellants are also entitled to addition of 10% on the income of the deceased towards future prospects as per the ratio laid down by the Hon'ble Supreme Court in **National Insurance Co. Ltd. Vs. Pranay Sethi**[2].

7. In **Ramachandrappa**'s case (supra), the Apex Court fixed the income of the deceased therein at Rs.4,500/-, though no income proof was adduced to that effect. In view of the same, this Court is inclined to take the income of the deceased at Rs.4,500/- per month. Apart from the same, the respondents are entitled to addition of 10% towards future prospects, as per the decision of the Hon'ble Supreme Court in **Pranay Sethi** (supra). Therefore, monthly income of the deceased comes to Rs.4,950/- (Rs.4,500/- + Rs.450/-), and after deduction of 1/3rd towards personal expenses, the annual income comes to Rs.39,600/- (Rs.3,300/- X 12 months). As the deceased was aged about 55 years, the appropriate multiplier is '11'. Hence, the compensation under the head 'loss of income' comes to Rs.4,35,600/- (Rs.39,600/- X 11). Apart from the same, the appellants are entitled to Rs.70,000/- towards conventional heads, as per **Pranay Sethi**'s case (supra). Therefore, the total compensation comes to Rs.5,05,600/- (Rs.4,35,600 + Rs.70,000/-).

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[1] (2011) 13 SCC 236
[2] 2017(6) ALD 170 (SC)

8. It is brought to the notice of this Court by the learned counsel for the appellant that the appellant had already paid a sum of Rs.50,000/- to the respondents towards ex-gratia and sought to reduce the said amount from the total compensation amount.

9. As the appellant had paid Rs.50,000/- to the respondents towards ex-gratia, the same needs to be deducted from the total compensation. Therefore, the total compensation would come to Rs.4,55,600/-(Rs.5,05,600/- - Rs.50,000/-).

10. In the result, MACMA.No.2725 of 2008 is dismissed and Cross Objections (SR) No.1010 of 2016 is allowed, enhancing the compensation amount awarded by the Tribunal from Rs.2,49,000/- to Rs.4,55,600/-. The enhanced amount shall carry interest @ 7.5% per annum. Miscellaneous petitions pending, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 17.06.2019
TJMR