THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.2814 OF 2008

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Judgment and Decree dated 05.01.2004 passed in O.P.No.143 of 2001 by the Motor Accidents Claims Tribunal-cum-II Additional District Judge at Karimnagar (for short, the Tribunal).

2. The brief facts of the case are that appellant No.1 is the wife, respondent No.3 is the father of the deceased, Suithari Ashok. On 29.07.2000 at about 9.45 pm., while the deceased was returning to his house at Godavarikhani from Karimnagar on his Hero Honda motorcycle, and when he reached near Rangampallil village, the motorcycle of the deceased hit the lorry bearing No.ATN 9003 which was parked negligently on the middle of the road without any precautionary measures. As a result, the deceased sustained fatal injuries and died on the spot. The claimant filed aforesaid OP claiming compensation of Rs.10,00,000/- against respondents 1 and 2, owner and insurer of aforesaid lorry, for the death of the deceased.

3. Before the Tribunal, respondent No.1 remained *ex parte*. Respondent No.2 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 negligent parking of the lorry with any indication and awarded total compensation of Rs.3,20,000/-, with interest @ 9% per annum. Dissatisfied with the quantum of compensation, the appellant filed the present appeal, seeking enhancement of the same.

5. Heard.

6. Sri Ramchandar Rao Vemuganti, learned counsel for the appellant, submitted that though the appellants produced the evidence to show that the deceased was earning Rs.15,000/- per month by doing Cable T.V., connection business, the Tribunal erroneously fixed the lump sum amount of Rs.3,00,000/- and the same is very low. He further submitted that the appellant is 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].**

7. Sri Nisaruddin Ahmed Jeddy, learned Standing Counsel for respondent No.2, submitted that the Tribunal passed a well reasoned order and sought to dismiss the appeal.

8. Though the appellant filed Ex.A.7-certificate to show that the deceased was doing Cable T.V., business and earning Rs.9,000/-

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

per month, she did not file the income tax returns to prove the income of the deceased, and hence, her evidence as P.W.1 cannot be accepted. However, as the deceased is said to be doing cable TV business, I am inclined to fix the notional income of the deceased at Rs.3,000/- per month. Apart from the same, the appellant is entitled to addition of 40% 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.4,200/- (Rs.3,000/- + Rs.1,200/-), and after deduction of 1/3rd, the annual income comes to Rs.33,600/- (Rs.2,800/- X 12 months). As the deceased was aged about 24 years, the appropriate multiplier is '18'. Hence, the compensation under the head 'loss of income' comes to Rs.6,04,800/- (Rs.33,600/- X 18). Apart from the same, the appellant is entitled to Rs.70,000/- towards conventional heads, as per **Pranay Sethi**'s case (supra). Therefore, the total compensation comes to Rs.6,74,800/- (Rs.6,04,800 + Rs.70,000/-).

9. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed, enhancing the compensation amount awarded by the Tribunal from Rs.3,20,000/- to Rs.6,74,800/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of claim petition till realization. Miscellaneous petitions pending, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 15.07.2019
TJMR