

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.2118 OF 2008

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 28.05.2008 passed in O.P.No.377 of 2006 by the Motor Accidents Claims Tribunal-cum-Principal District Judge, Medak at Sangareddy (for short, the Tribunal).

2. The brief facts of the case are that appellant No.1 is the husband, appellant Nos.2 and 4 are sons and appellant No.3 is the daughter of the deceased, Eddu Ramulamma. On 20.06.2006 at about 1.00 pm., while the deceased was sleeping in the front yard of her house, the tractor/trailor bearing Nos.23V 9594 and 9595 driven by its driver in a rash and negligent manner ran over the deceased, due to which, she died on the spot. The claimants filed aforesaid OP claiming compensation of Rs.4,00,000/- against respondent Nos.1 and 2, owner and the insurer of the tractor and trailor, 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 driving of the driver of tractor and awarded total compensation of Rs.1,93,000/- i.e., Rs.1,80,000/-

towards future loss of earnings, Rs.10,000/- towards loss of consortium and Rs.3,000/- towards funeral expenses, with interest @ 7.5% per annum. Dissatisfied with the quantum of compensation, the appellants filed the present appeal, seeking enhancement of the same.

5. Heard.

6. Sri C.Pratap Reddy, learned counsel for the appellants, submitted that the Tribunal erroneously fixed the income of the deceased at Rs.1,000/- per month and the same is very low. He further submitted that the appellants are 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 A.Rama Krishna Reddy, learned Counsel for respondent No.2, submitted that the Tribunal passed a well reasoned order and sought to dismiss the appeal.

8. The appellants have not filed any proof to show the income of the deceased and therefore, notional income of Rs.3,000/- per month is taken into consideration. Apart from the same, the appellants are 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

¹ 2017(6) ALD 170 (SC)

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). The multiplier for the age of the deceased is '14'. Hence, the compensation under the head 'future loss of earnings' comes to Rs.4,70,400/- (Rs.33,600/- X 14). Apart from the same, the appellants are entitled to Rs.70,000/- towards conventional heads, as per **Pranay Sethi's** case (supra). As the appellant No.3-Eddu Linga Mani, was a minor at the time of accident, she is entitled for Rs.50,000/- towards loss of filial as per the ratio laid down by the Hon'ble Supreme Court in **Magma General Insurance Co.Ltd. Vs.Nanu Ram Alias Chuhru Ram**². Therefore, the total compensation comes to Rs.5,90,400/- (Rs.4,70,400/- + Rs.70,000/- + Rs.50,000/-).

9. In the result, the Motor Accident Civil Miscellaneous Appeal is allowed, enhancing the compensation amount awarded by the Tribunal from Rs.1,93,000/- to Rs.5,90,400/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of claim petition till realization. As the claimants claimed only Rs.4,00,000/-, 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: 15.07.2019
TJMR

² 2018 Law Suit (SC) 904