

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1177 OF 2006

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 09.11.2005 passed in O.P.No.2333 of 2003 by the Additional Metropolitan Sessions Judge for the Trial of Jubilee Hills Car Bomb Blast Case-cum-Additional Family Court-cum-Additional Chief Judge, Red Hills, Nampally at Hyderabad (for short, the Tribunal).

2. The brief facts of the case are that appellant Nos.1 and are the parents and appellant Nos.3 and 4 are the brothers of the deceased, Gattu Dayanand @ Kumar. On 13.08.2003 at about 8.30 pm., while the deceased and one Laxmaiah were proceeding on scooter bearing No.AP13 8141 from Sheriguda towards Hyderabad, and when they reached near Gurranguda, a bus bearing No.AP20T 4199 came in opposite direction in rash and negligent manner with high speed and dashed the scooter, as a result of which, the deceased sustained grievous injuries and died on the spot. The claimants filed aforesaid OP claiming compensation of Rs.4,00,000/- against respondent Nos.1 and 2, owner and insurer of the bus, for the death of the deceased.

3. Before the Tribunal, respondent No.1 remained *ex parte*. Respondent No.2 filed a 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 bus and awarded total compensation of Rs.2,22,096/- with interest @ 6% per annum i.e., Rs.1,92,096/- towards loss of dependency, Rs.15,000/- towards loss of estate, Rs.5,000/- towards transportation and funeral expenses and Rs.10,000/- towards loss of love and affection. Dissatisfied with the quantum of compensation, the appellants filed the present appeal, seeking enhancement of the same.

5. Sri C.Vikram Chandra, learned counsel for the appellants, submitted that though the appellants produced evidence to show that the deceased was working as lorry driver and earning Rs.5,000/- per month, the Tribunal erroneously took the income of the deceased at Rs.2,000/- per month and the same is very low. He further submitted that the age of the deceased is 21 and the appropriate multiplier for calculation of compensation is '18' as per **Smt.Sarla Varma Vs. Delhi Transport Corporation**¹, but the Tribunal wrongly adopted the multiplier '12'. He further submitted that the appellants are also entitled to addition of 40% on the income of the deceased towards future prospects and also

¹ 2009(6) SCC 121

Rs.30,000/- towards conventional charges, as per the ratio laid down by the Hon'ble Supreme Court in **National Insurance Co. Ltd. Vs. Pranay Sethi**². He further submitted that appellant Nos.1 and 2, being the mother and father of the deceased, are entitled to Rs.40,000/- each towards loss of filial consortium, as per the decision of the Hon'ble Supreme Court in **Magma General Insurance Co.Ltd. Vs.Nanu Ram Alias Chuhru Ram**³.

6. Sri Harinath Gupta, learned Standing Counsel for respondent No.2, submitted that the Tribunal passed a well reasoned order and sought to dismiss the appeal.

7. Though no proof of income of the deceased was filed, as the driving licence of the deceased (Ex.A.6) is having batch number to show that he was working as driver, I am inclined to fix the income of the deceased at Rs.4,000/- per month notionally. Apart from the same, the appellants are entitled to addition of 40% on the income of the deceased towards future prospects, as per **Pranay Sethi's** case (supra). Therefore, monthly income of the deceased comes to Rs.5,600/- (Rs.4,000/- + Rs.1,600/-), and after deduction of 1/2, as the deceased is a bachelor, the annual income comes to Rs.33,600/- (Rs.2,800/- X 12). As the deceased was aged about 21 years, the appropriate multiplier is '18'. Hence, the compensation under the head 'loss of dependency' comes to Rs.6,04,800/- (Rs.33,600/- X 18). Apart from the same, the appellants are

² 2017(6) ALD 170 (SC)

³ 2018 Law Suit (SC) 904

entitled to Rs.30,000/- towards conventional heads, as per **Pranay Sethi's** case (supra). Appellant Nos.2 and 3, being the father and mother of the deceased, are entitled to Rs.80,000/- (Rs.40,000/- each) towards filial consortium, as per **Nanu Ram Alias Chuhru Ram's** case (supra). Therefore, the total compensation comes to Rs.7,14,800/- (Rs.6,04,800/- + Rs.30,000/- + Rs.80,000/-).

8. In the result, the Motor Accident Civil Miscellaneous Appeal is allowed, enhancing the compensation amount awarded by the Tribunal from Rs.2,22,096/- to Rs.7,14,800/-. 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.

Date: 23.09.2019
TJMR

T.AMARNATH GOUD, J