

HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.3501 of 2005

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 09-04-2003 passed in M.V.O.P.No.623 of 2002 by the Motor Vehicle Accidents Claims Tribunal-cum-Principal District Judge, Warangal (for short, the Tribunal).

2. Brief facts of the case are that on 29-03-2002, the deceased-Arun Kumar proceeded in the jeep bearing No.AP 7 V 2613 to Tharasingh Bai Thanda, near Sahakara Bank at Nellikudur, and when he got down from the said jeep, another jeep bearing No.AP 7W 1054 came in the opposite direction in a rash and negligent manner and dashed against him, due to which, he received fatal injuries and died on the spot. Hence, the claimant Nos.1 to 3, who are the parents and sister of the deceased, filed the claim petition against the respondent Nos.1 to 3, who are the owner and insurers of the crime vehicle, claiming compensation of Rs.2.50 lakhs on the ground that the deceased was earning Rs.3,000/- per month and he was aged about 18 years at the time of accident.

3. In the claim petition, the respondent Nos.2 and 3-insurer filed 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 on the part of the driver of the crime vehicle only. So far as granting of compensation is concerned, the Tribunal granted an amount of Rs.87,000/- i.e. Rs.72,000/- towards loss of dependency and Rs.15,000/- towards non-pecuniary damages. Accordingly, it partly allowed the claim petition with interest at 9% per annum through out.

5. Dissatisfied with the quantum of compensation, the appellants/claimants filed the present appeal, seeking for enhancement of the compensation.

6. Heard the learned counsel for the appellants-claimants and the learned Standing Counsel for the 2nd respondent-insurer.

7. Learned counsel for the appellants-claimants contends that it is a case of death and at the time of accident, the deceased was aged about 18 years and earning Rs.3,000/- per month. He further contends that the Tribunal erred in awarding compensation of Rs.72,000/- by taking monthly income at Rs.1,000/- per month instead of Rs.3,000/- and that the Tribunal also ignored in awarding compensation under the heads of conventional and filial as per the decisions of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi¹** and **Magma General Insurance**

¹ 2017 (6) 170 (SC)

Company Limited v. Nanu Ram @ Chuhru Ram². Therefore, the claimant is entitled for fair compensation.

8. Smt. P.Satya Manjula, learned Standing Counsel for the 2nd respondent-insurer, contends that the Tribunal awarded compensation in a just and proper manner and she supported the order passed by the Tribunal and prayed to dismiss the appeal.

9. As seen from the order of the Tribunal, the Tribunal has taken monthly income of the claimant at Rs.1000/- per month which is very meager amount. According to the judgment of the Apex Court in **Ramachandrappa v. Royal Sundaram Alliance Insurance Com. Ltd.**,³ wherein, the Apex Court held that even for a 'coolie' the monthly income has to be taken at Rs.4,500/-. However, the claimants claimed Rs.3,000/- per month in the present case. Hence, the said income may be taken into consideration. Considering the number of dependents on the deceased, half of the said amount towards personal expenditure can be deducted, then it comes to Rs.1,500/- (Rs.3000/- (-) Rs.1500/-) i.e. Rs.18,000/- per annum; Further, since at the time of accident, the deceased was aged about 18 years, the correct multiplier to be applied is '18' but not '12' as applied by the Tribunal. Hence, the total loss of income in respect of the contribution towards his family members comes to Rs.3,24,000/- (18000/- x 18).

² 2018 Law Suit (SC) 904

³ (2011) 13 S.C.C. 236

10. Further, since the deceased was bachelor at the time of accident, the claimants are entitled to be granted compensation of Rs.30,000/- towards conventional head, as per the decision of the Supreme Court in **Pranay Sethi** (1 supra). Hence, an amount of Rs.30,000/- is granted to the claimants.

11. Further, respondent Nos.1 and 2 being parents of the deceased are entitled to be granted compensation of Rs.80,000/- (Rs.40,000/- each) towards loss of filial charges as per the decision of the Supreme Court in **Magma** (2 supra).

12. Except the above modification, the compensation awarded by the Tribunal i.e. Rs.15,000/- towards non-pecuniary damages shall remain unchanged. Therefore, the claimants are granted total compensation of Rs.4,49,000 /-, under various heads as follows:

Sl.No.	Name of Head	Awarded by Tribunal	Awarded by this Court
01.	Loss of dependency	Rs.72,000/-	Rs.3,24,000/-
02.	Non pecuniary damages	Rs.15,000/-	Rs. 15,000/-
03.	Conventional Head	Nil	Rs. 30,000/-
06.	Filial charges	Nil	Rs. 80,000/-
Total		Rs.87,000/-	Rs.4,49,000/-

13. In the result, the appeal is allowed by enhancing the compensation awarded by the Tribunal from Rs.87,000/- to Rs.4,49,000/- (Rupees Four Lakhs and Forty Nine Thousand only). The enhanced amount of compensation shall carry interest at 7.5% per annum. The appellants/claimants are directed to pay deficit Court Fee. The respondents are directed to deposit the enhanced amount

along with proportionate costs and interest within two months from the date of receipt of a copy of this order. On such deposit, the appellants/claimants are permitted to withdraw the entire amount. No costs.

14. Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE T.AMARNATH GOUD

Date: 18.09.2019
kvr

