

HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.430 of 2008

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 24-01-2007 passed in O.P.No.1147 of 2004 by the Motor Accidents Claims Tribunal-cum-District Judge, Nizamabad.

2. The brief facts of the case are that on 17-03-2003 the deceased Barmavath Ravi was going on foot on the side of the road and when he reached the limits of Gangayyakuntathanda, at about 1.00 pm, one lorry bearing No.AP-28/T-7263, going from Gopalpet side towards Yellalreddy, driven by its driver at high speed in rash and negligent manner, lost control over the lorry and dashed against the deceased, due to which, the deceased sustained multiple fractures to skull, fracture of right shoulder and other multiple injuries all over the body and died on the spot. Hence, the appellants-claimants filed the O.P. claiming compensation of Rs.4,00,000/- against respondent Nos.1 and 2, the owner and the insurer of the crime vehicle, for the death of the deceased in the said accident.

3. Before the Tribunal, respondent No.1 remained *ex parte*. Respondent No.2 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 of the driver of respondent No.1 and awarded total compensation of Rs.2,11,000/- i.e., Rs.1,56,000/- towards loss of dependency, Rs.5,000/- towards transportation and funeral expenses and Rs.50,000/- towards loss of love and affection for the loss of company of the deceased.

5. Heard.

6. Learned counsel for the appellants contends that as per the settled principles of law, the income of the deceased can be taken as Rs.6,500/- per month instead of Rs.1500/- per month as he was a unmarried bachelor and vegetable vendor.

7. Learned counsel for the 2nd respondent-insurer contends that the compensation awarded by the Tribunal is highly excessive and it cannot be interfered with and further the Tribunal has taken 1/3rd personal deduction instead of 50% personal deduction. Hence, the appeal is liable to be dismissed.

8. In the facts and circumstances of the case, I am of considered view that granting of amounts of Rs.1,56,000/- towards loss of dependency by the Tribunal is meager as the deceased was an unmarried bachelor aged 20 years and he was fire-wood and vegetable vendor. Hence, his income is to be taken as Rs.3,000/- per month instead of Rs.1500/- per month and also multiplier can be taken as '18' instead of '13' and personal deduction is to

be taken at 50% as per the decision of the Supreme Court in **Smt. Sarla Varma Vs. Delhi Transport Corporation**¹. Then the compensation for this head comes to Rs.3,24,000/- (18000 x 18). Apart from the same, as per the decision of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi**², an amount of Rs.30,000/- can be granted towards conventional head. Except the said enhancement, rest of the award remains un-changed. Hence, the total compensation comes to Rs.4,09,000/- as follows:

Sl.No.	Name of Head	Awarded by Tribunal	Awarded by this Court
01.	Loss of dependency	Rs.1,56,000/-	Rs.3,24,000/-
02.	Transportation	Rs.5,000/-	Rs.5,000/-
03.	Loss of love and affection	Rs.50,000/-	Rs.50,000/-
04.	Conventional head	Nil	Rs.30,000/-
Total		Rs.2,11,000/-	Rs.4,09,000/-

9. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed by enhancing the compensation amount awarded by the Tribunal from Rs.2,11,000/- to Rs.4,09,000/-. However, appellants have claimed compensation of Rs.4,00,000/- only, they are directed to pay deficit Court Fee for the remaining amount. The appellants are entitled to interest @ 7.5% per annum on enhanced compensation from the date of petition till realization, as per the decision of the Apex Court in **Rajesh and others v. Rajbir Singh and others**³. 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

¹ (2009) 6 S.C.C. 121
² AIR 2017 (6) 170 (SC)
³ 2013 ACJ 1403 = 2013 (4) ALT 35

appellant are permitted to withdraw the entire amount as apportioned by the Tribunal in its award. No costs.

10. As a sequel thereto, Miscellaneous Applications, if any, pending in this appeal shall stand disposed of.

JUSTICE T.AMARNATH GOUD

Date: 15-07-2019

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