

HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.50 of 2015

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 30-09-2014 passed in O.P.No.531 of 2012 by the Motor Vehicle Accidents Claims Tribunal (District Judge), Nizamabad (for short, the Tribunal).

2. Brief facts of the case are that on 24-12-2011 at about 5 pm, the deceased – Medidha Sudershan @ Reddy was going on motorcycle bearing No.AP-25-AE-0225 as pillion rider while one Sk. Saleem was driving the said vehicle, and when they reached Phulong bridge, one tractor bearing No.AP-25-AD-2037 with Trolly No.AP-25-N-0244 came from their behind in a rash and negligent manner and rammed into their vehicle, due to which, the deceased sustained grievous crush injuries and succumbed while shifting to the hospital. Hence, the claimants, who are wife, son and mother of the deceased, filed the claim petition claiming compensation of Rs.8.00 lakhs against the respondents who are owner and insurer of the crime vehicle for the death of the deceased.

3. In the claim petition, the 2nd respondents-insurer filed its counter denying the averments of the claim petition and contended that the compensation 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.6,79,000/- i.e. Rs.5,04,000/- towards loss of dependency; Rs.1,25,000/- towards loss of consortium and funeral charges; and Rs.50,000/- towards love and affection. Accordingly, it partly allowed the claim petition granting total compensation of Rs.6,79,000/- with interest at 7.5% 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 42 years and earning Rs.15,000/- per month by doing business. He further contends that the Tribunal ignored future prospects while awarding compensation under the head of loss of dependency. Further, the Tribunal also ignored granting compensation towards loss of filial. Therefore, the claimant is entitled for fair compensation.

8. Sri Ramachandra Reddy Gadi, learned Standing Counsel for the 2nd respondent-insurer, contends that the Tribunal erred in awarding

compensation of Rs.1,25,000/- under the head of loss of consortium and funeral charges since the claimants are altogether entitled to be granted only Rs.70,000/- out of 1,25,000/- as per the decision of the Supreme Court in **National Insurance Company Limited v. Pranay Sethi**¹. Insofar as the compensation granted under other heads, he 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 deceased at Rs.4,500/- per month. Admittedly, there is no dispute with regard to the deceased was doing business and earning some income as deposed by P.W.2. Based on that, the Tribunal computed the loss of dependency and granted compensation. But however as contended by the claimants, the Tribunal ignored in adding future prospects while awarding compensation under this head since as per the decision of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi**², the deceased is entitled to be granted future prospects at 25% as he was self employed i.e. businessman. Then his monthly income comes to Rs.5,750/- (4500 + 1250) per month. After deducting 1/3rd of the income towards his personal expenses, the annual income of the deceased comes to Rs.46,000/- per annum (5750 x 2/3 x 12). Further, since at the time of accident, the deceased was aged about 42 years, the Tribunal has rightly applied multiplier '14'. Hence, the total loss of income in respect of the contribution towards his family members comes to Rs.6,44,000/- (46000 x 14).

¹ 2017 (6) 170 (SC)

² 2017 (6) 170 (SC)

10. Further, being mother of the deceased, the 3rd claimant is also entitled to be granted compensation of Rs.40,000/- towards loss of filial as per the decision of the Supreme Court in **Magma General Insurance Company Limited v. Nanu Ram @ Chuhru Ram**³.

11. Further, as contended by the learned Standing Counsel for the 2nd respondent-insurer, the Tribunal erred in granting 1,25,000/- towards loss of consortium and funeral charges. Since as per the decision of the Supreme Court in **Pranay Sethi** (1 supra), the claimants are entitled to be granted only Rs.70,000/- under this head. Hence, the said compensation is being reduced from 1,25,000/- to Rs.70,000/-.

12. Except the above modification, the compensation awarded by the Tribunal under the head of love and affection i.e. Rs.50,000/- shall remain unchanged. Therefore, the claimants are granted total compensation of Rs.8,04,000/- under various heads as follows:

S.No.	Name of Head	Awarded by Tribunal Rs.	Awarded by this Court Rs.
1.	Loss of Dependency	5,04,000/-	6,44,000/-
2.	Loss of Consortium + Funeral	1,25,000/-	70,000/-
3.	Love and affection	50,000/-	50,000/-
4.	Filial charges	Nil	40,000/-
	Total	6,79,000/-	8,04,000/-

13. In the result, the appeal is allowed by enhancing the compensation awarded by the Tribunal from Rs.6,79,000/- to Rs.8,04,000/- (Rupees Eight Lakhs Four Thousand only). The enhanced amount of compensation shall carry interest at 7.5% per annum. The

³ 2018 Law Suit (SC) 904

appellants/claimants are directed to pay Court Fee for the enhanced amount of compensation. 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: 09.08.2019

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