

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.3830 OF 2008

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 29.06.2005 passed in O.P.No.845 of 2003 by the Motor Accidents Claims Tribunal-cum-II Additional Chief Judge, City Civil Court at Hyderabad (for short, the Tribunal).

2. The brief facts of the case are that appellant No.1 is the wife, appellant No.2 is the daughter, appellant No.3 is the father and appellant No.4 is the mother of the deceased, Bijay Kumar. On 22.01.2003 at about 3.10 pm., when the deceased along with his Swaran Singh Sonu was coming from Jagadgiri Gutta to New Boinpally on their scooter bearing No.AP28M 7117, and when they reached near Boinpally Cantonment Check Post, one RTC bus bearing No.AP10Z 5520 came in high speed in a rash and negligent manner and dashed against the scooter. In the said accident, the RTC bus ran over the deceased, due to which, the deceased sustained grievous injuries all over the body. Immediately, he was shifted to Remedy Hospital, and while taking the treatment, he succumbed to injuries. The claimants filed aforesaid OP claiming compensation of Rs.5,00,000/- against the RTC for the death of the deceased.

3. Before the Tribunal, the respondent-RTC 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 rash and negligent driving of the driver of the RTC bus and awarded total compensation of Rs.3,98,000/-, with interest @ 9% per annum. Dissatisfied with the quantum of compensation, the appellants filed the present appeal, seeking enhancement of the same.

5. Sri Kasireddy Jagathpal Reddy, learned counsel for the appellants, submitted that though the appellants produced the evidence to show that the deceased was earning more than Rs.10,000/- per month by doing polishing of marble stones, and though restricted to Rs.5,000/- per month, the Tribunal erroneously fixed the income of the deceased at Rs.75/- per day 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 as per the ratio laid down by the Hon'ble Supreme Court in **National Insurance Co. Ltd. Vs. Pranay Sethi**¹.

6. Sri N.Vasudeva Reddy, learned Standing Counsel for the respondent-RTC, submitted that the Tribunal passed a well reasoned order and sought to dismiss the appeal.

¹ 2017(6) ALD 170 (SC)

7. In **Ramachandrappa Vs. Royal Sundaram Alliance Insurance Co. Ltd.**², the Apex Court fixed the income of the deceased therein at Rs.4,500/-, though no income proof was adduced to that effect. In view of the same, this Court is inclined to take the income of the deceased at Rs.4,500/- per annum. 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 Rs.6,300/- (Rs.4,500/- + Rs.1,800/-), and after deduction of 1/3rd, the annual income comes to Rs.50,400/- (Rs.4,200/- X 12 months). The multiplier for the age of the deceased is '18'. Hence, the compensation under the head 'loss of income' comes to Rs.9,07,200/- (Rs.50,400/- X 18). Apart from the same, the appellants are entitled to Rs.70,000/- towards conventional heads, as per **Pranay Sethi's** case (supra). As per the medical records, the deceased was taken treatment for 8 days in the hospital, and hence, the amount of Rs.35,000/- granted by the Tribunal towards treatment charges is enhanced to Rs.75,000/-. Therefore, the total compensation comes to Rs.10,52,200/- (Rs.9,07,200 + Rs.70,000/- + 75,000/-).

8. In the result, the Motor Accident Civil Miscellaneous Appeal is allowed by enhancing the compensation amount awarded by the Tribunal from Rs.3,98,000/- to Rs.10,52,200/-. The enhanced amount shall carry interest @ 7.5% per annum. As the claimants claimed only Rs.5,00,000/-, they are directed to deposit deficit

² (2011) 13 SCC 236

Court fee, while withdrawing the amount. Miscellaneous petitions pending, if any, shall stand closed. No costs.

Date: 17.06.2019
TJMR

T.AMARNATH GOUD, J

