

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.286 OF 2017

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 07.11.2016 passed in M.V.O.P.No.384 of 2015 by the Motor Accidents Claims Tribunal (District Judge) at Nizamabad (for short, the Tribunal).

2. The brief facts of the case are that the appellants are the minor children of the deceased, Gandla Madhavi @ Onnaji Madha Bai. On 26.02.2015 at about 9.30 am., the deceased, along with her sister, went to Nizamabad from Basar and after reaching Nizamabad bus stand, both of them got down from the bus and were coming out for an auto by walk, and when they reached the bus stand gate, one RTC bus bearing No.AP29Z 2671, coming into the bus stand, came in a rash and negligent manner and hit the deceased, due to which, the deceased fell down on the wheels of the bus and died on the spot. The claimants filed aforesaid MVOP claiming compensation of Rs.12,00,000/- against the respondents-RTC, for the death of the deceased.

3. Before the Tribunal, the respondents 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 the

bus and awarded total compensation of Rs.7,37,000/- with interest @ 7.5% per annum i.e., Rs.5,12,000/- towards loss of dependency, Rs.2,00,000/- towards loss of love and affection and Rs.25,000/- towards funeral expenses. Dissatisfied with the quantum of compensation, the appellants filed the present appeal, seeking enhancement of the same.

5. Learned counsel for the appellants submitted that though the appellants produced the evidence to show that the deceased was earning Rs.15,000/- per month, the Tribunal erroneously fixed the income of the deceased at Rs.4,000/- per month 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. He further submitted that the appellants, being the minor children of the deceased, are entitled to Rs.50,000/- each towards loss of parental consortium, as per the decision of the Hon'ble Supreme Court in **Magma General Insurance Co.Ltd. Vs.Nanu Ram Alias Chuhru Ram**².

6. Learned Standing Counsel for the respondent-RTC submitted that the Tribunal awarded Rs.1,00,000/- each towards loss of love and affection and Rs.25,000/- towards funeral expenses, which are excessive and sought to reduce the same. He further submitted

¹ 2017(6) ALD 170 (SC)

² 2018 Law Suit (SC) 904

that except the same, 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 deceased is stated to be worked in IIIT Basar, I am inclined to fix the income of the deceased at Rs.4,500/- per month notionally. Apart from the same, the appellants are entitled to addition of 40% towards future prospects, as per **Pranay Sethi's** case (supra). Therefore, monthly income of the deceased comes to Rs.6,300/- (Rs.4,500/- + Rs.1,800/-), and after deduction of 1/3rd as the dependants are two in number, the annual income comes to Rs.50,400/- (Rs.4,200/- X 12). As the deceased was aged 35 years as per Ex.A.4, the appropriate multiplier is '16'. Hence, the compensation under the head 'loss of dependency' comes to Rs.8,06,400/- (Rs.50,400/- X 16). The Tribunal granted Rs.1,00,000/- each towards loss of love and affection and Rs.25,000/- towards funeral expenses on its own, but the appellants are entitled to Rs.15,000/- towards funeral expenses, as per **Pranay Sethi's** case (supra), and Rs.50,000/- each towards loss of parental consortium, as per **Nanu Ram Alias Chuhru Ram's** case (supra). Therefore, the total compensation comes to Rs.9,21,400/- (Rs.8,06,400/- + Rs.15,000/- + Rs.1,00,000/-).

8. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed, enhancing the compensation amount awarded by the Tribunal from Rs.7,37,000/- to Rs.9,21,400/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of

claim petition till realization. The respondents are directed to deposit the amount awarded along with interest within thirty days from the date of receipt of a copy of this order. As the appellants are minors, the amount shall be kept in any nationalized bank till they attain majority. However, the guardian of the minor children is permitted to withdraw the accrued interest once in a year for the welfare and expenditure of the minor children. Miscellaneous petitions pending, if any, shall stand closed. No costs.

Date: 26.12.2019
TJMR

T.AMARNATH GOUD, J

