

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.3754 OF 2005

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Judgment and Decree dated 07.10.2005 passed in M.V.O.P.No.1577 of 2003 by the Additional Metropolitan Sessions Judge for the Trial of Communal Offence Cases-cum-Motor Vehicle Accidents Claims Tribunal-cum- XXI Additional Chief Judge, Hyderabad (for short, the Tribunal).

2. The brief facts of the case are that appellant No.1 is the father and appellant No.2 is the mother of the deceased, A.Sudheer Reddy. The deceased was an Engineering Student of B.E., 1st year, studying in Arora Engineering College, Bhongir. On 12.03.2003 at about 4.45 P.M., while he was returning to Hyderabad as a pillion rider on a Hero Honda motorcycle bearing No.AP11/Ad/TR 3537, along with his classmate, and when they reached near Shameerpet river bridge, in the outskirts of Bibinagar, lorry bearing No.AP36T 9788, driven by its driver in a rash and negligent manner and in wrong side and dashed the motorcycle. In the said accident, the deceased fell down and sustained grievous injuries and died on the spot. The claimants filed the above M.V.O.P., claiming compensation of Rs.10,00,000/- on account of death of the deceased.

3. Before the Tribunal, Respondent No.2 remained *ex parte*. Respondent No.2 filed its counter denying the allegations made in the claim petition *inter alia* contending that the amount of

compensation claimed by the claimants is excessive, exorbitant, imaginary and out of proportion and sought to dismiss the 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 lorry, and awarded a total compensation of Rs.1,72,000/- with interest @ 7.5% per annum. Dissatisfied with the order passed by the Tribunal, the appellants filed the present appeal, seeking enhancement of the compensation.

5. Heard.

6. Sri B.Narayana Reddy, learned counsel appearing for the appellants, submitted that the Tribunal has granted meager amount of Rs.1,72,000/- against the claim of Rs.10,00,000/- towards compensation, which needs to be enhanced. He further submitted that the deceased was an Engineering student and his income can be fixed at Rs.12,000/- per month as per the judgment of this Court in **B.Ramulamma V. Venkatesh Bus Union**¹. He further submitted that the deceased was aged about 19 years at the time of accident and the appropriate multiplier as per the decision of the Hon'ble Supreme Court in **Smt. Sarla Varma Vs. Delhi Transport Corporation**², is '18', but the Tribunal wrongly adopted multiplier of '16'. He further submitted that the appellants are also entitled to addition of 40% on the income of the deceased towards future prospects and Rs.30,000/- towards conventional charges, as per the ratio laid down by the Hon'ble Supreme Court in **National**

¹ (2009 (6) ALD 684 (DB)

² 2009 (6) SCC 1211

Insurance Co. Ltd. Vs. Pranay Sethi³. He further submitted that in view of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Co. Ltd. V. Nanu Ram Alias Chuhru Ram & Others**⁴, the appellants are entitled to Rs.40,000/- each under the head loss of filial consortium.

7. Sri S.A.V.Ratnam, learned counsel appearing for respondent No.2, submitted that the Tribunal has passed a well reasoned order and sought to dismiss the appeal.

8. The Tribunal after taking into consideration of the education of the deceased as Engineering student, arrived the income of the deceased at Rs.15,000/- per annum and after deducting 1/3rd of the said amount, an amount of Rs.10,000/- per annum was the contribution to the family and accordingly Rs.1,60,000/- has been awarded towards loss of dependency, Rs.2,000/- towards funeral expenses and Rs.10,000/- towards loss of estate, totaling Rs.1,72,000/- as against the claim of Rs.10,00,000/-.

8. The claimants in their claim petition claimed the income of the deceased at Rs.5,000/- per month and thus going by the claim petition, Rs.5,000/- per month is fixed towards income of the deceased. The Tribunal has taken the multiplier of '16' by taking into consideration the age of the mother of the deceased, but this Court is inclined to apply the multiplier of '18' as per the decision of the Apex Court in **Smt.Sarla Varma's** case (supra), basing on the age of the deceased at 19 years. Apart from the

³ 2017(6) ALD 170 (SC)

⁴ 2018 Law Suit (SC) 904

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), the annual income of the deceased comes to Rs.7,000/- (Rs.5,000/- + 40% future prospects) and after deducting 50% of the income for his personal expenses as the deceased died unmarried, the loss of dependency comes to Rs.7,56,000/- (3,500/- x 12 x 18). The appellants are also entitled to Rs.30,000/- towards conventional charges, as per **Pranay Sethi's** case (supra). In the light of **Nanu Ram's** case (supra), the appellants, being the parents of the deceased, are entitled to Rs.80,000/- (Rs.40,000/- each) towards loss of filial consortium. Therefore, the total compensation comes to Rs.8,66,000/- (Rs.7,56,000/- + Rs.30,000/- + Rs.80,000/-).

8. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed enhancing the compensation amount awarded by the Tribunal from Rs.1,72,000/- to Rs.8,66,00/- . The enhanced amount shall carry interest @ 7.5% per annum from the date of petition till realization. Miscellaneous petitions pending, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 29.08.2019.
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