

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1492 OF 2008

JUDGMENT:

This appeal is filed by the appellant-insurance company aggrieved by the Order and Decree dated 10.01.2000 passed in O.P.No.492 of 1996 by the District Judge (MACT) Medak at Sangareddy (for short, the Tribunal).

2. The brief facts of the case are that respondent Nos.1 and 2 herein are father and mother of the deceased-A.Ram Reddy, respectively. On 08.01.1996 at 7.00 pm., when the deceased stopped his scooter on the back side of the lorry bearing No.AP15T 8993 near Muthangi on the National Highway, the driver of the said lorry, while taking reverse, drove it in a rash and negligent manner and dashed against the scooter, as a result of which, the deceased died on the spot. Respondent Nos.1 and 2 herein filed aforesaid OP claiming compensation of Rs.1,30,000/- against the owner of the lorry (respondent No.3 herein), and insurer of the lorry (appellant herein).

3. The appellant filed its written statement 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 lorry and awarded total compensation of Rs.1,37,400/- i.e.,

Rs.1,22,400/- towards pecuniary damages and Rs.15,000/- towards loss of consortium.

5. Smt.I.Maamu Vani, learned counsel for the appellant, submits that though the claim was filed for Rs.1,30,000/-, the Tribunal wrongly granted compensation of Rs.1,37,400/-. She further submits that as the deceased was bachelor, the Tribunal ought to have deducted 50% from the income of the deceased towards personal expenses instead of 1/3 and sought to reduce the compensation amount. She relied on a judgment of the Hon'ble Supreme Court in **Ranjana Prakash Vs. Divisional Manager**¹.

6. Sri N.Sreedhar Reddy, learned counsel for respondent Nos.1 and 2, submits that the Tribunal/Court has a duty, irrespective of the claims made in the application, if any, to properly award a just, equitable, fair and reasonable compensation, if necessary, ignoring the claim made in the application for award of compensation. Therefore, the compensation amount granted by the Tribunal is reasonable and has to be confirmed. He relied on a Full Bench decision of the Hon'ble Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi**² and also the decision of the Himachal Pradesh High Court in **Sarita Devi Vs. Ashok Kumar Nagar**³.

7. A perusal of the order of the Tribunal, it is clear that as the claimants did not file any certificate to show that the deceased was

¹ 2011 (8) SCALE

² 2018 (3) SCJ 218

³ 2016 (0) SCJOnline (HP) 45

working as a Clerk under Narasimha Reddy, the Tribunal, by assuming that the deceased was working as a daily-wager, had fixed the monthly income at Rs.900/- per month. From out of the said income, the Tribunal deducted 1/3 towards personal expenses and granted the compensation. As per the judgment of the Hon'ble Supreme Court in **Smt.Sarla Varma v Delhi Transport Corporation**⁴, 50% of his income should be deducted towards personal expenses, as the deceased was a bachelor. Therefore, the income of the deceased comes to Rs.450/- per month. The deceased was 20 years at the time of accident and the appropriate multiplier, as per **Smt.Sarla Varma's** case (supra), is '18'. Hence, the compensation under the head pecuniary damages comes to Rs.97,200/- (Rs.450/- x 12 x 18). Except the said modification, the order of the Tribunal remains unchanged.

8. Accordingly, the appeal is partly allowed, modifying the order of the Tribunal, by reducing the compensation from Rs.1,37,400/- to Rs.1,12,200/-. Miscellaneous petitions pending, if any, shall stand dismissed. No order as to costs.

T.AMARNATH GOUD, J

Date: 12.06.2019
TJMR

⁴ 2009(6) SCC 121