

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.2436 OF 2006

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Judgment and Decree dated 27.06.2006 passed in O.P.No.322 of 2004 by the Motor Accidents Claims Tribunal-cum-VI Additional District Judge, Vikarabad (FTC), Ranga Reddy District (for short, the Tribunal).

2. The brief facts of the case are that appellant No.1 is the wife, appellant Nos.2 and 3 are the children and appellant Nos.4 and 5 are the parents of the deceased, Chawan Mohan Singh. On 29.04.2004 at about 10.30 am., while the deceased, along with his friend, was proceeding on scooter bearing No.AP23 2589 from Rampur Tanda to Mada Ananthapur Village to attend the marriage of his brother, and when they reached near Sri Sai Rice Mill, Mombapur Village, one jeep bearing No.AP28M 966 came in a rash and negligent manner with high speed in opposite direction and dashed the scooter. In the said accident, the deceased sustained multiple grievous injuries all over his body and he was immediately shifted to Government Civil Hospital, Tandur, and from there, while he was shifting to Osmania General Hospital, succumbed due to the injuries. The claimants filed aforesaid OP claiming compensation of Rs.5,00,000/- against respondent Nos.1 and 2, owner and insurer of the jeep, for the death of the deceased.

3. Before the Tribunal, respondent No.1 remained *ex parte*. Respondent No.2 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 jeep and awarded total compensation of Rs.1,80,000/- with interest @ 7.5% per annum i.e., Rs.1,60,000/- towards loss of dependency, and Rs.20,000/- towards loss of consortium. Dissatisfied with the quantum of compensation, the appellants filed the present appeal, seeking enhancement of the same.

5. Sri K.Venkat Rama Reddy, learned counsel for the appellants, submitted that though the appellants produced the evidence to show that the deceased was earning Rs.6,000/- per month by working as stone cutter, the Tribunal erroneously fixed the income of the deceased at Rs.15,000/- per annum 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 and also Rs.70,000/- towards conventional charges, 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 as per Ex.A.4, post-mortem report, the age of the deceased is 30

¹ 2017(6) ALD 170 (SC)

years and the appropriate multiplier for calculation of compensation is '17' as per **Smt.Sarla Varma Vs. Delhi Transport Corporation**², but the Tribunal wrongly adopted the multiplier '16'. He further submitted that appellant Nos.2 and 3, being the minor children of the deceased, are entitled to Rs.50,000/- each towards loss of parental consortium and appellant Nos.4 and 5, being the parents of the deceased, are entitled to Rs.40,000/- each, as per the decision of the Hon'ble Supreme Court in **Magma General Insurance Co.Ltd. Vs.Nanu Ram Alias Chuhru Ram**³.

6. Sri P.Bhanu Prakash, learned Standing Counsel for respondent No.2, submitted that 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 working as stone cutter, this Court is 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 1/4th, as the dependants are five in number, the annual income comes to Rs.56,700/- (Rs.4,725/- X 12). As the deceased was aged about 30 years as per Ex.A.4 post mortem report, the appropriate multiplier is '17'. Hence, the compensation under the head 'loss of

² 2009(6) SCC 121

³ 2018 Law Suit (SC) 904

dependency' comes to Rs.9,63,900/- (Rs.56,700/- X 17). Apart from the same, the appellants are entitled to Rs.70,000/- towards conventional heads, as per **Pranay Sethi's** case (supra). As appellant Nos.2 and 3 are minor daughters, they are entitled to Rs.50,000/- each towards parental consortium and appellant Nos.4 and 5 are entitled to Rs.40,000/- each towards filial consortium, as per **Nanu Ram Alias Chuhru Ram's** case (supra). Therefore, the total compensation comes to Rs.12,13,900/- (Rs.9,63,900/- + Rs.70,000/- + Rs.1,00,000/- + Rs.80,000/-).

8. In the result, the Motor Accident Civil Miscellaneous Appeal is allowed, enhancing the compensation amount awarded by the Tribunal from Rs.1,80,000/- to Rs.12,13,900/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of claim petition till realization. As the claimants claimed only Rs.5,00,000/-, they are directed to deposit deficit Court fee before the Tribunal. Miscellaneous petitions pending, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 06.11.2019
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