

**THE HON'BLE SRI JUSTICE T.AMARNATH GOUD**

**M.A.C.M.A. No.1061 OF 2006**

**JUDGMENT:**

This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 05.04.2006 passed in O.P.No.1994 of 2004 by the II Additional Metropolitan Sessions Judge-cum-XVI Additional Chief Judge, Hyderabad (for short, the Tribunal).

2. The brief facts of the case are that appellant No.1 is the husband and appellant Nos.2 to 6 are the children of the deceased, Smt.Yasmin Fathima. On 15.07.2004 at about 1.30 pm., while the deceased, along with her son, was going on a scooter on the extreme left side of the road from Charminar to Barkas, and when they reached near Syed Ali Chabutra, one RTC bus bearing No.AP10Z 832 came in opposite direction with high speed and in rash and negligent manner and dashed the scooter of the deceased. In the said accident, the deceased fell down on the road and the front tire of the bus ran over the head of the deceased, due to which, she died on the spot. The claimants filed aforesaid OP claiming compensation of Rs.4,00,000/- against the respondents, RTC, for the death of the deceased.

3. Before the Tribunal, the respondents filed a 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.1,65,000/- with interest @ 7.5% per annum i.e., Rs.1,60,000/- towards loss of life and Rs.5,000/- towards funeral expenses. Dissatisfied with the quantum of compensation, the appellants filed the present appeal, seeking enhancement of the same.

5. Sri Kasi Reddy Jagathpal Reddy, learned counsel for the appellants, submitted that though the appellants produced the evidence to show that the deceased was earning Rs.4,000/- per month by doing tailoring work, the Tribunal erroneously fixed the income of the deceased at Rs.15,000/- per year 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**<sup>1</sup>. He further submitted that appellant Nos.2 to 6, 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**<sup>2</sup>.

---

<sup>1</sup> 2017(6) ALD 170 (SC)

<sup>2</sup> 2018 Law Suit (SC) 904

6. Sri N.Vasudeva Reddy, learned Standing Counsel for the respondents, submitted that as per Ex.A.4, post-mortem report, the age of the deceased is 38 years and the appropriate multiplier for calculation of compensation is '15' as per **Smt.Sarla Varma Vs. Delhi Transport Corporation**<sup>3</sup>, but the Tribunal wrongly adopted the multiplier '16'. He further submitted 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, having regard to the evidence of the claimants that the deceased was doing tailoring work, I am inclined to fix the notional income of the deceased at Rs.4,000/- per month. 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.5,600/- (Rs.4,000/- + Rs.1,600/-), and after deduction of 1/4<sup>th</sup>, as the dependants are six in number, the annual income comes to Rs.50,400/- (Rs.4,200/- X 12). As the deceased was aged 38 years as per Ex.A.4, the appropriate multiplier is '15'. Hence, the compensation under the head 'loss of dependency' comes to Rs.7,56,000/- (Rs.50,400/- X 15). 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 to 6 are minor children of the deceased, they are entitled to Rs.2,50,000/- (Rs.50,000/- each) towards parental

---

<sup>3</sup> 2009(6) SCC 121

consortium, as per **Nanu Ram Alias Chuhru Ram**'s case (supra). Therefore, the total compensation comes to Rs.10,76,000/- (Rs.7,56,000/- + Rs.70,000/- + Rs.2,50,000/-).

8. In the result, the Motor Accident Civil Miscellaneous Appeal is allowed, enhancing the compensation amount awarded by the Tribunal from Rs.1,65,000/- to Rs.10,76,000/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of claim petition till realization. As the claimants claimed only Rs.4,00,000/-, they are directed to deposit deficit Court fee before the Tribunal. Miscellaneous petitions pending, if any, shall stand closed. No costs.

Date: 23.09.2019  
TJMR

**T.AMARNATH GOUD, J**

