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

**M.A.C.M.A. No.327 OF 2011**

**JUDGMENT:**

This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 07.02.2005 passed in O.P.No.443 of 2001 by the Motor Accidents Claims Tribunal (I Additional District Judge), at Nizamabad (for short, Tribunal).

2. The brief facts of the case are that on 15.12.2000 at about 10.20 am, while the deceased Brahmandlapally Ramulu was going on scooter bearing No.AP 25 5247 from Dichpally towards Nizamabad and when he reached near Royal Steel Center, Vinayaknagar, Nazamabad, a lorry tanker bearing No.AHW 857 being driven by its driver came from behind and dashed against the scooter of the deceased due to which the deceased fell down and front wheel of the lorry tanker run over the deceased and that he received crush injuries on his testicles, abdomen and also sustained multiple fractures and injuries on other parts of the body and died on the spot. The IV Town Nizamabad Police registered Crime N.146 of 2000 under Section 304-A of IPC. The deceased was working as Junior Assistant in the office of Commercial Tax Officer-I, Nizamabad, and was earning Rs.7,506/- per month. The 1st petitioner is the wife, 2nd petitioner is mother and petitioners 3 to 5 are the children of deceased and they were all depending on the earnings of the deceased. Due to sudden death of the deceased, the petitioners lost his affection and also source of livelihood. The accident occurred due to rash and negligent driving of the offending tanker lorry by its driver. Hence, the petitioners claimed compensation of Rs.8,80,000/- against the respondents 1 and 2, who are owner and insurer of the offending lorry respectively.

3. Before the Court below, the respondents filed separate counters 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 evidence produced by the parties, the Court below granted total compensation of Rs.6,50,000/-, with interest @ 9% per annum from the date of petition till realization, i.e., 7,80,624/- towards loss of dependency, Rs.15,000/- towards consortium to the 1st petitioner, Rs.10,000/- towards loss of estate, Rs.5,000/- towards expenses for transportation of dead body and funeral and by deducting 1/5th of the total compensation towards contributory negligence. Dissatisfied with the quantum of compensation, the appellants filed the present appeal, seeking enhancement of the same.

5. Heard.

6. Though the claim is made for Rs.8,80,000/-, it is a bounden duty of this Court to award just and proper compensation. Before the Tribunal, the appellants filed Ex.A.4 salary certificate to show that the deceased was working as Junior Assistant in the office of Commercial Tax Officer-I, Nizamabad, and was getting salary of Rs.7,506/- per month and by deducting the professional tax of Rs.100/-, the salary of the deceased would be Rs.7,406/- (Rs.7,506/- - Rs.100/-). The Tribunal did not grant any amount towards future prospects. In the circumstances, this Court is inclined to take the income of the deceased at Rs.7,406/- per month. Apart from the same, the appellants are entitled to addition of 50% towards future prospects, as per the decision of the Hon'ble Supreme Court in **National Insurance**

**Co. Ltd. Vs. Pranay Sethi**[1]**.** Therefore, the monthly income of the deceased comes to Rs.11,109/- (Rs.7,406/- + Rs.3,703/-), and after deduction of 1/4th towards personal expenses of the deceased since there are five family members, which comes to Rs.2,777/- (Rs.11,109/- x 1/4) the annual income comes to Rs.99,984/- (Rs.8,332/- x 12 months). The multiplier for the age of the deceased is '13'. Hence, the compensation under the head 'loss of income' comes to Rs.12,99,792/- (Rs.99,984/- x 13). Apart from the same, the appellants are entitled to Rs.70,000/- towards conventional heads, as per the decision of the Hon'ble Supreme Court in **Pranay Sethi's case** (supra). Therefore, the total compensation comes to Rs.13,69,792/- (Rs.12,99,792/- + Rs.70,000/-). While awarding the amount, at para 8 of the order the issue of contributory negligence was also involved, which this Court declines to accept holding that no case has been made out for contributory negligence. Insofar as the interest is concerned, for the amount awarded by the Tribunal, interest of 9% shall continue and with regard to the enhanced amount, interest of 7.5% shall be computed. Except the said modification, the order of the Tribunal remains unchanged.

7. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed by enhancing the compensation amount awarded by the Tribunal from Rs.6,50,000/- to Rs.13,69,753/-. The enhanced amount shall carry interest @ 7.5% per annum. No costs.

As a sequel thereto, Miscellaneous Applications, if any, pending in this appeal shall stand disposed of.

**T.AMARNATH GOUD, J**

Date: 13th June, 2019
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[1] 2017(6) ALD 170 (SC)