

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No. 229 OF 2008

JUDGMENT:

This appeal is filed by the appellants - claimants aggrieved by the order and decree dated 18.04.2007 passed in O.P.No.2 of 2006 by the Motor Accidents Claims Tribunal (Principal District Judge) at Warangal (for short, the Tribunal) whereby the Tribunal awarded compensation of Rs.4,02,000/- on account of death of the deceased Mohd. Khaja Pasha in an accident occurred on 06.04.2005 as against the claim of Rs.20,00,000/-.

2. For the sake of convenience, the parties herein are referred to as they were arrayed before the Tribunal.

3. The brief facts of the case are that the 1st petitioner is the mother and the 2nd petitioner is the unmarried sister of the deceased – Mohd. Khaja Pasha; on 06.04.2005, the petitioners along with the deceased and other family members went to the Picnic near Mango Garden situated at Punnelu Village; while the deceased along with his brother were returning to the place of Picnic by walk at Inavolu Arch on Warangal – Khammam highway, after purchasing curd, at about 1:30 P.M., a lorry bearing No.AP 36V 9953 came in a rash and negligent manner with high speed and dashed against the deceased and his brother, as a result, both of them fell down on the ground and sustained grievous injuries; they were immediately shifted to MGM hospital, Warangal, where Mohd. Khaja Pasha succumbed to the injuries while undergoing treatment. The petitioners filed the aforesaid M.V.O.P. claiming compensation of Rs.20,00,000/- against respondent Nos.1, 2 and

3, the owner and the insurers of the aforesaid lorry, for the death of the deceased in the said accident.

4. Before the Tribunal, respondent Nos.1 and 2 remained *ex parte*. Respondent No.3 – Insurance Company filed its counter denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

5. 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.4,02,000/-, with interest @ 7.5% per annum. Dissatisfied with the quantum of compensation, the appellants filed the present appeal seeking enhancement of the same.

6. Learned counsel for the petitioners submitted that though the petitioners produced Ex.A6 – certificate issued by the Proprietor of Vijaya Traders, Warangal, wherein the deceased was working as a Clerk-cum-Partner and doing Adthi and commission business, the Tribunal erroneously fixed his income at Rs.125/- per day and the same is very low. He further submitted that the Tribunal has not taken the loss of future prospects at 50% as per the decision of the Apex Court in **National Insurance Company Limited v. Pranay Sethi**¹. Further, the Tribunal applied multiplier '10', instead of '18', though the age of the deceased at

¹ 2017 (6) AD 170 (SC)

the time of the accident was 22 years. He further submitted that the Tribunal ought to have deducted 50% from the income of the deceased towards personal expenses instead of 1/3rd, as per the decision of the Apex Court in **Smt. Sarla Verma And others v. Delhi Transport Corporation and Another**².

7. Learned Standing Counsel for the respondents – Insurance Company submitted that the Tribunal passed a well reasoned order and sought to dismiss the appeal.

8. In the facts and circumstances of the case, I am inclined to fix the notional income of the deceased at Rs.4,500/- per month. As rightly contended by the learned counsel for the petitioners, since the deceased was a bachelor, 50% of his income should be deducted towards personal expenses as per **Sarla Verma's** case (supra). Therefore, the income of the deceased comes to Rs.2,250/- per month. As the deceased was 22 years at the time of accident, the appropriate multiplier is '18'. Hence, the compensation under the head 'loss of dependency' comes to Rs.4,86,000/- (Rs.2,250/- X 12 X 18). As the deceased is a bachelor, the petitioners are entitled to Rs.30,000/- towards conventional heads as per **Pranay Sethi's** case (supra). Hence, the petitioners are entitled to a total compensation of Rs.5,16,000/- (Rs.4,86,000/- + Rs.30,000/-). The enhanced amount of compensation shall carry interest at 7.5% per annum.

² 2009 (6) SCC 121

9. In the result, the appeal is allowed in part by enhancing the compensation amount awarded by the Tribunal from Rs.4,02,000/- to Rs.5,21,000/- with interest at 7.5% per annum on the enhanced amount. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand dismissed.

Date:24.06.2019

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T. AMARNATH GOUD, J

