

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.2216 of 2008

JUDGMENT:

The appellants-claimants filed this appeal against the order and decree dated 27.03.2008 passed in O.P.No.202 of 2007 by the V Additional Metropolitan Sessions Judge (Mahila Court)-cum-XIX Additional Chief Judge, City Criminal Courts, Hyderabad.

2. The brief facts of the case are that on 30.01.2007 at about 22.20 hours, while the deceased Sunil Kumar was proceeding on a scooter from Santhoshnagar towards L.B.Nagar, and when he reached near Sagar Ring Road, a lorry bearing No.TJ 13 G 4025, driven by its driver in a rash and negligent manner and dashed against the scooter, due to which, the deceased sustained multiple injuries. Immediately, he was shifted to Osmania General Hospital, where he succumbed to injuries while undergoing treatment. Hence, the petitioners being wife, children and mother of the deceased, filed aforesaid O.P., claiming compensation of Rs.6,50,000/- for the death of the deceased.

3. The 1st respondent-owner of crime vehicle remained *ex parte*. The 2nd respondent-Insurer filed counter denying the allegations made in the claim petition *inter alia* contending that the amount of compensation claimed by the petitioners is highly excessive and exorbitant and sought to dismiss the petition.

4. During the course of trial, the petitioners examined P.Ws.1 to 3 and got marked Exs.A1 to A11. On behalf of the respondents, no

oral evidence was adduced, but Ex.B1-copy of insurance policy was marked.

5. After considering the material on record and the evidence adduced by the parties, the Court below allowed the O.P. in part awarding compensation of Rs.4,60,500/- with interest at 7% p.a. from the date of petition till the date of realization payable by respondents 1 and 2 jointly and severally. Aggrieved by the said quantum of compensation, the petitioners preferred the present appeal.

6. Heard Sri B. Venkat Reddy, learned counsel for the appellants and Sri B. Devanand, learned Standing Counsel for respondent No.2.

7. A perusal of the order impugned would disclose that the Court below, while granting compensation towards loss of income, took the monthly income of the deceased at Rs.3,500/-. However, as the deceased was earning a sum of Rs.4,500/-per month by working in a Beauty Parlor, the same can be taken as his monthly income and also in view of the judgment of the Apex Court in **Ramachandrappa v. The Manager, Royal Sundaram Aliance Insurance Company Limited**¹. Since the Tribunal did not grant any amount towards future prospects, this Court is inclined to award 40% towards future prospects, as per the decision of the Apex Court in **National Insurance Company Limited v Pranay Sethi**². Thus, the monthly income of the deceased would come to Rs.6,300/- (Rs.4,500+1,800

¹ AIR 2011 Supreme Court 2951

² AIR 2017 SC 5157

(40% future prospects)). However, as the claimants are four in number, $\frac{1}{4}^{\text{th}}$ of his income should be deducted towards personal expenses and the contribution to his family members would come to Rs.4,725/- and annually it comes to Rs.56,700/-. Since the deceased was aged about 35 years at the time of the accident, the appropriate multiplier, as per the decision of the Apex Court in **Sarla Verma v Delhi Transport Corporation**³, is '16'. Hence, the compensation towards loss of income comes to Rs.56,700x16 =9,07,200/-. In addition to it, the claimants are also entitled to a sum of Rs.70,000/- under conventional heads as per the decision of the Apex Court in **Pranay Sethi's** case (1 supra). Thus, the total compensation would come to Rs.9,07,200 +70,000=9,77,200/- and the same is awarded to the claimants.

8. In the result, the appeal is allowed, by enhancing the compensation amount awarded by the Tribunal from Rs.4,60,500/- to Rs.9,77,200/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of filing of this appeal to its realization and that as the claim is Rs.6,50,000/-, the claimants shall pay the deficit Court fee before the Tribunal. Miscellaneous petitions, if any pending in this appeal, shall stand closed. No order as to costs.

T.AMARNATH GOUD, J

8th July, 2019

sj

³ 2009(6) SCC 121

