THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1185 OF 2008

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 21.11.2007 passed in O.P.No.2679 of 2006 by the Motor Accident Claims Tribunal-cum-III Additional Chief Judge, City Civil Court, Hyderabad (for short, Tribunal).

2. The brief facts of the case are that on 01.12.2006, Mohd. Omer along with his friend Mohd. Osman was driving his motor cycle on the left side margin. The opposite coming car No.AP 11R 5100 belonging to the 1st respondent was driven in a rash and negligent manner and hit against the motor cycle from wrong side. Mohd. Osman sustained fatal injuries and breath his last. The motor cycle is also damaged. Police registered a case against the driver of the car. It is alleged that the deceased is an employee in A.A.Techno Services and was getting a monthly income of Rs.8,000/- and he was also doing part time business in real estate. The appellants claimed compensation for Rs.8,00,000/-. The 1st respondent is the owner of crime vehicle i.e., Tavera bearing No.AP 11R 5100 and the 2nd respondent is the insurer for the said vehicle.

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 Tribunal granted total compensation of Rs.5,67,600/-, with interest @ 7.5% per annum from the date of petition till realization, i.e., 5,45,600/- towards loss of dependency, Rs.2,000/- towards funeral expenses, Rs.10,000/- towards loss of estate and Rs.10,000/- towards

consortium. Dissatisfied with the quantum of compensation, the appellants filed the present appeal, seeking enhancement of the same.

5. Heard.

6. The Tribunal has applied the multiplier of '13.64' basing on the decision reported in **Bhagawan Das v. Mohd. Arif[1],** but in the light of the decision reported in **Sarla Verma and others v. Delhi Transport Corporation and Another[2],** as the deceased was aged about 38 years by the time of the accident, multiplier of '15' has to be applied. Therefore, taking into account the monthly income of the deceased as Rs.5,000/- per month and after deduction of 1/3rd towards personal expenses of the deceased, which comes to Rs.1,667/- (Rs.5,000/- x 1/3), the annual income comes to Rs.39,996/- (Rs.3,333/- x 12 months). Hence, the compensation under the head 'loss of dependency' comes to Rs.5,99,940/- (Rs.39,996/- x 15). Insofar as granting of Rs.2,000/- towards funeral expenses, Rs.10,000/- towards loss of estate and Rs.10,000/- towards loss of consortium is concerned, in the light of the judgment of the Hon'ble Supreme Court in **National Insurance Co. Ltd. Vs. Pranay Sethi[3],** this Court is inclined to grant Rs.70,000/- towards conventional heads. Therefore, the total compensation comes to Rs.6,69,940/- (Rs.5,99,940/- + Rs.70,000/-). Insofar as the interest is concerned, interest of 7.5% shall be computed for the enhanced amount.

7. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed by enhancing the compensation amount awarded by the Tribunal from Rs.5,67,600/- to Rs.6,69,940/-. The enhanced amount shall carry interest @ 7.5% per annum. No costs.

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[1] 1987 ACJ 1052
[2] (2009) 6 SCC 121
[3] 2017(6) ALD 170 (SC)

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

T.AMARNATH GOUD, J

Date: 17th June, 2019

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