

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

C.M.A. No.4815 OF 2004

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 23.01.2003 passed in O.P.No.679 of 2001 by the II Additional Chief Judge, City Civil Court, Hyderabad (for short, the trial Court).

2. The brief facts of the case are that appellant Nos.1 and 2 are the mother and father of the deceased, Syed Abdul Hafeez. On 23.09.2000 at about 6.00 pm, while the deceased was going towards Darussalam from Alaska Cross Road on his cycle, a lorry bearing No.AP95 9898 came in high speed in a rash and negligent manner in opposite direction and dashed the cycle of the deceased, as a result of which, the deceased sustained crush injuries and died on the spot. The claimants filed aforesaid OP claiming compensation of Rs.3,00,000/- against respondent Nos.1 and 2, owner and insurer of the lorry, for the death of the deceased.

3. Before the trial Court, the respondent No.1 remained *ex parte*. Respondent No.2 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 trial Court 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.3,00,000/- with interest @ 9% per annum. Dissatisfied with the quantum of compensation, the appellants filed the present appeal, seeking enhancement of the same, along with CMA.MP.No.16327 of 2014 to enhance the compensation amount from Rs.3,00,000/- to Rs.4,50,000/-, which was ordered by this Court on 21.12.2014.

5. Sri E.Venugopal Reddy, learned counsel for the appellants, submitted that the age of the deceased was 19 at the time of accident and the appropriate multiplier for calculation of compensation is '18' as per **Smt.Sarla Varma Vs. Delhi Transport Corporation**¹, but the trial Court wrongly adopted the multiplier '12.79' by taking into consideration the age of appellant No.1 (mother of the deceased). He further submitted that the appellants are entitled to addition of 40% on the income of the deceased towards future prospects and also Rs.30,000/- towards conventional charges, as per the ratio laid down by the Hon'ble Supreme Court in **National Insurance Co. Ltd. Vs. Pranay Sethi**². He further submitted that the appellants, being the parents of the deceased, are entitled to Rs.40,000/- each towards filial consortium, as per the decision of the Hon'ble Supreme Court in **Magma General Insurance Co.Ltd. Vs.Nanu Ram Alias Chuhru Ram**³.

¹ 2009(6) SCC 121

² 2017(6) ALD 170 (SC)

³ 2018 Law Suit (SC) 904

6. Sri B.Devanand, learned Standing Counsel for respondent No.2, submitted that the trial Court passed a well reasoned order and sought to dismiss the appeal.

7. The trial Court took the notional income of the deceased at Rs.3,000/- per month, which needs no interference. 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.4,200/- (Rs.3,000/- + Rs.1,200/-), and after deduction of 1/2 as the deceased is a bachelor, the annual income comes to Rs.25,200/- (Rs.2,100/- X 12). As the deceased was aged 19 years, the appropriate multiplier is '18'. Hence, the compensation under the head 'loss of dependency' comes to Rs.4,53,600/- (Rs.25,200/- X 18). Apart from the same, the appellants are entitled to Rs.30,000/- towards conventional heads, as per **Pranay Sethi's** case (supra). The appellants, being the parents of the deceased, are entitled to Rs.80,000/- (Rs.40,000/- each) towards filial consortium, as per **Nanu Ram Alias Chuhru Ram's** case (supra). Therefore, the total compensation comes to Rs.5,63,600/- (Rs.4,53,600/- + Rs.30,000/- + Rs.80,000/-).

8. In the result, the Civil Miscellaneous Appeal is allowed, enhancing the compensation amount awarded by the trial Court from Rs.3,00,000/- to Rs.5,63,600/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of claim petition till

realization. As the claimants claimed only Rs.4,50,000/-, they are directed to deposit deficit Court fee before the trial Court. Miscellaneous petitions pending, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 27.08.2019
TJMR

