THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.344 OF 2010

JUDGMENT:

This appeal is filed by the appellants – claimants against the order dated 29.08.2009 in O.P.No.8 of 2008 passed by the Motor Accidents Claims Tribunal-cum-II-Additional Chief Judge, City Civil Court, Hyderabad (for short 'the Tribunal), whereby the Tribunal awarded compensation of Rs.1,50,448/- on account of the death of the deceased, Salahuddin, in a motor vehicle accident occurred on 15.11.2007.

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

3. Being dissatisfied with the quantum of compensation awarded by the Tribunal, the legal heirs of the deceased filed this appeal seeking enhancement of the same.

4. The brief facts of the case are hereunder:

On 15.11.2007, at about 3:00 P.M., while the deceased was returning to Hakeempet on his scooter bearing No.AP 28E 7784 from his office situated at Himayathnagar on the extreme left side of the road and when he reached near Moghal Residency Complex at Tolichowki, a jeep bearing No. AP 23U 0081 driven by its driver at high speed in a rash and negligent manner dashed against the scooter of the deceased, as a result of which the deceased fell down from the scooter and sustained fatal injuries on his head and body and died on the spot. The deceased was working as Telephone Mechanic in BSNL, Central, Hyderabad, and was drawing Rs.15,000/- per month in addition to other benefits. The petitioners are dependents upon the income of the deceased. The deceased was hale and healthy and aged 59 years old as on the date of accident.

5. The petitioners, who are wife, daughters and son of the deceased, filed the claim petition before the Tribunal invoking the provisions under Section 166 of the Motor Vehicles Act claiming compensation of Rs.10,00,000/-. The Tribunal has applied the multiplier based on the decision of the Apex Court in **BHAGWAN DAS v. MOHD ARIF**[1]**,** which was overruled by **Smt. SARLA VERMA AND OTHERS v. DELHI TRANSPORT CORPORATION AND ANOTHER**[2]**.** The Tribunal has taken the salary of the deceased at Rs.15,681/- per month, as per Ex.A6 - pay slip and deducted 1/3rd towards his personal expenses and applied multiplier '1' as per **BHAGAVAN DAS**'s case (1 supra). The Tribunal has awarded Rs.10,000/- towards loss of consortium to the first petitioner, Rs.2,500/- towards funeral expenses, Rs.2,500/- towards loss of estate and Rs.10,000/- towards love and affection and on account of sudden death of the deceased. Thus, the Tribunal awarded total compensation of Rs.1,50,448/- (Rs.15,681/- X 12 = Rs.1,88,172 X 1/3rd deduction = Rs.1,25,448/- + Rs.10,000/- + Rs.2,500/- + Rs.2,500/- + Rs.10,000/-) towards loss of dependency with interest @ 7.5% per annum from the date of petition till the date of realization.

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[1] 1987 ACJ 1052
[2] (2009) 6 SCC 121

6. Learned counsel for the petitioners submitted that the Tribunal has not taken the loss of future prospectus at 15% as per the decision of the Apex Court in **NATIONAL INSURANCE COMPANY LTD. v. PRANAY SETHI[3],** as the age of the deceased was '59' years and also not awarded adequate compensation towards loss of consortium, loss of estate and funeral expenses. Therefore, the petitioners are entitled to enhancement of compensation. There is no dispute with regard to the manner of accident and involvement of the vehicle.

7. Admittedly, the Tribunal has not taken the future prospects of the deceased, who was an employee working in BSNL. Relying on the decision of **PRANAY SETHI'**s case (3 supra), the future prospects at 15% can be added to the salary of the deceased as the deceased was aged 59 years, as on the date of the accident. As per Ex.A6 – pay slip, the monthly income of the deceased was Rs.15,681/- and when 15% is added to his salary towards future prospectus as per **PRANAY SETHI'**s case (3 supra), it comes to Rs.18,033/- (Rs.15,681/- + Rs.2,352/-). As per the decision of the Apex Court in **SARLA VERMA**'s (2 supra), 1/5th has to be deducted, as the number of dependants are more than six in number and in the instant case, the claimants are nine in number. Therefore, after deducting 1/5th, the monthly income of the deceased comes to Rs.14,427/- (Rs.18,033/- - Rs.3,606/-). Thus, the annual income of the deceased comes to Rs.1,73,124/- (Rs.14,427/- x 12). Applying the relevant multiplier '9', as the age

[3] AIR 2017 SC 5157

of the deceased was 59 years and as per the decision of **SARLA VERMA'**s case (2 supra), the loss of dependency can be quantified at Rs.15,58,116/- (Rs.1,73,124 x 9). As per **PRANAY SETHI'**s case (3 supra), the petitioners are entitled to conventional charges at Rs.70,000/-. Thus, the petitioners are entitled for a total compensation of Rs.16,28,116/- (Rs.15,58,116/- + Rs.70,000/-). The enhanced compensation amount shall carry interest at 7.5% per annum from the date of petition till the date of realization. The respondents 1 to 3 are directed to deposit the compensation amount jointly and severally within three months from the date of this judgment. The claimants are entitled to withdraw the compensation amount soon after depositing the same as per their proportionate share. The claimants have to pay deficit Court fee over and above Rs.10,00,000/- and if the deficit Court fee is not paid, as per Rule 475 of the Motor Vehicles Rules before the Tribunal, the claimants cannot be permitted to withdraw the enhanced amount.

8. With the above modification, the appeal is allowed. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand dismissed.

T.AMARNATH GOUD, J

Date:03.07.2019

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