

HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.2523 of 2006

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 17-05-2006 passed in O.P.No.534 of 2004 by the V Additional Metropolitan Sessions Judge, Mahila Court, Hyderabad (for short, the trial Court).

2. Brief facts of the case are that the claimants, who are the parents of the deceased-Venkatesh, filed the claim petition against the respondents claiming compensation of Rs.4.00 lakhs for the death of the deceased in the accident occurred on 31-08-2003 in a motor accident near Word and Deed School, Hayathnagar.

3. In the claim petition, the respondents, who are the owner and insurer filed their 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 oral and documentary evidence on record, the Trial Court came to the conclusion that the accident occurred due to the rash and negligent driving on the part of the driver of the crime vehicle only and accordingly, granted an amount of Rs.1,78,000/-, payable by both the respondents with interest at 7% per annum through out.

5. Dissatisfied with the quantum of compensation, the appellants/claimants filed the present appeal, seeking for enhancement of the compensation.

6. Heard the learned counsel for the appellants-claimants and the learned Standing Counsel for the 2nd respondent-insurer.

7. Learned counsel for the appellants-claimants contends that it is a case of death and at the time of accident, the deceased was aged about 24 years. He further contends that the Trial Court erred in taking monthly income of the deceased while awarding the compensation. As per **Ramachandrappa v. Royal Sundaram Alliance Insurance Com. Ltd.**,¹ wherein, the Apex Court held that even for a 'coolie', the monthly income can be fixed @ Rs.4,500/- per month. He further contends that as per the latest law laid down by the Apex Court, the claimants are also entitled for compensation under the heads like loss of filial and conventional etc. Therefore, the claimant is entitled for fair compensation.

8. Learned Standing Counsel for the 2nd respondent-insurer, contends that the Trial Court awarded compensation in a just and proper manner and he supported the order passed by the Trial Court and prayed to dismiss the appeal.

9. As seen from the order of the Trial Court, the Trial Court did not follow the decision of the Apex Court in **Ramachandrappa**

¹ (2011) 13 S.C.C. 236

(1 supra) in taking notional income of the deceased @ Rs.4,500/- per month. Considering the same, the income of the deceased comes to Rs.54,000/- per annum.

10. In spite of that, as per the decision of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi**², the deceased is entitled to be granted future prospects at 40%. Then his annual income comes to Rs.75,600/- (54,000/- (+) 21,600/-); Considering that he was unmarried, 50% of the said income towards personal expenditure can be deducted, then it comes to Rs.37,800/- per annum. Further, since at the time of accident, the deceased was aged about 24 years, the correct multiplier to be applied is '18' instead of '14'. Hence, the total loss of income comes to Rs.6,80,400/- (37800 x 18).

11. Further, since the deceased was a bachelor, the claimants are also entitled to be granted compensation of Rs.30,000/- towards conventional head as per the decision of the Supreme Court in **National Insurance Company Limited v. Pranay Sethi**³.

12. Further, being parents of the deceased, the claimants are also entitled to be granted compensation of Rs.80,000/- (Rs.40,000/- each) towards loss of filial as per the decision of the Supreme Court in

² 2017 (6) 170 (SC)

³ 2017 (6) 170 (SC)

**Magma General Insurance Company Limited v. Nanu Ram @
Chuhru Ram⁴.**

13. Therefore, the claimants are granted total compensation of Rs.7,90,400/- (Rs.6,80,400/- + Rs.30,000/- + Rs.80,000/-) under all those heads.

14. In the result, the appeal is allowed by enhancing the compensation awarded by the Trial Court from Rs.1,78,000/- to Rs.7,90,400/- (Rupees Seven Lakhs Ninety Thousand and Four Hundred only). The enhanced amount of compensation shall carry interest at 7.5% per annum. The appellants/claimants are directed to pay deficit Court Fee. The respondents are directed to deposit the enhanced amount along with proportionate costs and interest within two months from the date of receipt of a copy of this order. On such deposit, the appellants/claimants are permitted to withdraw the entire amount. No costs.

15. Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE T.AMARNATH GOUD

Date: 06.12.2019
kvr

⁴ 2018 Law Suit (SC) 904