THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.2242 OF 2006

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 15.06.2006 passed in O.P.No.1310 of 2002 by the Motor Accident Claims Tribunal (I Additional District Judge), at Khammam (for short, the Tribunal).

2. For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Tribunal in the original petition.

3. The brief facts of the case are that the 1st petitioner is son and the 2nd petitioner is the married daughter of the deceased-Kunja Venkamma. Prior to the accident, the deceased as aged about 45 years and was an agricultural labourer earning Rs.80/- per day. She was contributing the entire income to the petitioners, after spending a sum of Rs.1,500/- towards her necessities. On 03.12.2001 at about 8.30 a.m., the deceased went to sell brooms. They boarded the auto bearing No.AP 20U 6787 at 9.00 a.m., near Seetharampuram Village. The driver of the lorry bearing No.AP 16U 148 drove the said vehicle in rash and negligent manner and hit against the auto. The petitioner died at once. Hence, the petitioners filed the claim petition claiming compensation of Rs.1,50,000/-, payable by both the respondents being the owner and insurer of the offending lorry.

4. Before the Tribunal, respondent No.1 remained *ex parte.* Respondent No.2 filed its counter denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

5. After considering the oral evidence of P.W.1 and the documentary evidence of Exs.A-1 to A-5 & Ex.B-1, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the offending lorry and awarded total compensation of Rs.82,000/- i.e., Rs.80,000/- towards loss of income and Rs.2,000/- towards funeral expenses, with interest @ 7.5% per annum from the date of institution of the O.P. till the date of deposit, payable by both the respondents. Dissatisfied with the quantum of compensation, the appellants filed the present appeal, seeking enhancement of the same.

6. Heard Sri Nehru, learned counsel representing Sri Chedella Venkat Raman, learned counsel for the appellants and Sri M.Vara Prasada Rao, learned standing counsel for the 2nd respondent/insurance company. Perused the material record.

7. Sri Nehru, learned counsel representing Sri Chedella Venkat Raman, learned counsel for the appellants, submitted that though the claimants stated that the deceased was getting income of Rs.80/- per day i.e., Rs.2,400/- per month, as an agricultural labourer, but the Tribunal erroneously disbelieved

the same and fixed the notional income of the deceased at Rs.15,000/- per annum, which is very low. He further submitted that the appellants are also entitled to addition of 25% on the income of the deceased towards future prospects as the deceased was aged about 45 years at the time of the accident, as per the ratio laid down by the Hon'ble Supreme Court in **National Insurance Co. Ltd. Vs. Pranay Sethi**[1] and prayed to allow the appeal by enhancing the compensation amount.

8. Sri M.Vara Prasada Rao, learned standing counsel appearing for respondent No.2/insurance company, submitted that the Tribunal passed a well reasoned order and sought to dismiss the appeal.

9. Admittedly, though the claimants stated in the claim petition that the deceased was getting income of Rs.80/- per day i.e., Rs.2,400/- per month, as an agricultural labourer, but the Tribunal erroneously disbelieved the same and fixed the notional income of the deceased at Rs.15,000/- per annum, which is very low. Therefore, this Court is inclined to take the monthly income of the deceased @ Rs.2,400/-. Apart from the same, since the deceased was aged about 45 years as on the date of the accident, the appellants are entitled to addition of 25% towards future prospects, as per the decision of the Hon'ble Supreme Court in **Pranay Sethi** (supra). Therefore,

[1] 2017(6) ALD 170 (SC)

monthly income of the deceased comes to Rs.3,000/- (Rs.2,400/- + Rs.600/- (25%)), and after deduction of 1/3rd towards personal deductions of the deceased since there are only two family members of the deceased, the monthly income of the deceased would come Rs.2,000/- (Rs.3,000/- - Rs.1,000/- (1/3)). Therefore, the annual income of the deceased comes to Rs.24,000/- (Rs.2,000/- X 12 months). The multiplier for the age of the deceased is '14'. Hence, the compensation under the head of 'loss of income' comes to Rs.3,36,000/- (Rs.24,000/- X 14). The appellants are also entitled to Rs.70,000/- towards conventional charges, as per **Pranay Sethi**'s case (supra). Therefore, the total compensation comes to Rs.4,06,000/- (Rs.3,36,000/- + Rs.70,000/-).

10. In the result, the Motor Accident Civil Miscellaneous Appeal is allowed enhancing the compensation amount awarded by the Tribunal from Rs.82,000/- to Rs.4,06,000/-, payable by both the respondents jointly and severally. The enhanced amount shall carry interest @ 7.5% per annum from the date of petition till realization. As the claimants claimed only Rs.1,50,000/-, they are directed to deposit deficit Court fee before the Tribunal. The respondents are directed to deposit the enhanced amount along with proportionate costs and interest within two (02) months from the date of receipt of a copy of this order. On such deposit, the appellants are permitted to withdraw their respective shares as awarded by

the Tribunal, subject to payment of deficit court fee. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 22nd November, 2019

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