HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. Nos.242 of 2006 & 1641 of 2007

COMMON JUDGMENT:

Since both the appeals arise out of the common order, they are being disposed of by this common judgment.

2. Both the appeals are filed against the common order and decree dated 19-09-2005 passed in O.P.No.694 of 2003 by the M.A.C.T.-cum-II Additional District Judge, Ranga Reddy District (for short 'the Tribunal').

3. Brief facts of the case are that the claimants, who are the legal heirs of the deceased-Harihara Prasad, filed the claim petition against the owner and insurer of the crime vehicle claiming compensation of Rs.8.00 lakhs for the death of the deceased in the accident occurred on 05-04-2003 due to the rash and negligent driving of the driver of the lorry bearing No.AP 28Q 4926, when he is proceeding on scooter bearing No.AP 28Q 4926 from Dilsukhnagar to Vanasthalipuram.

4. In the claim petition, the insurer of the crime vehicle 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 and documentary evidence on record, the Tribunal 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 and accordingly, granted an amount of Rs.3.00 lakhs i.e. Rs.2,40,000/- towards loss of income; Rs.2,000/- towards funeral; Rs.8,000/- towards loss of estate and Rs.52,637/- by discharging the claimants from repayment of loan amount, with interest at 9% per annum, payable by the respondents jointly and severally.

6. Aggrieved by the order of the Tribunal, the claimants filed MACMA No.242 of 2006 and the insurer filed MACMA No.1641 of 2007.

7. Heard Sri K.Venkat Ram Reddy, learned counsel for the claimants and Sri K.Ajay Kumar, learned Standing Counsel, for the insurer.

8. Learned counsel for the claimants contends that the Tribunal erred in awarding meager compensation towards loss of dependency by taking monthly income @ Rs.2,000/- only instead of Rs.12,000/- as notional income in the light of the judgment of this court in **Setty Chandrasekhar Vs. Mohd. Ghouse and another**[1]; and that as per latest laws laid down by the Apex Court, the claimants are also entitled for compensation towards conventional head and filial charges. Hence, he prayed for fair compensation.

9. Per contra, learned Standing Counsel for the insurer contends that there is no material to show that the deceased was

---

[1] 2011 ACJ 2403

earning fixed income; that the Tribunal erred in discharging the deceased from the liability of balance due amount of the education loan i.e. Rs.52,631/- since there is no sufficient oral or documentary evidence to prove that the said amount has been repaid by the claimants; and therefore the compensation granted by the Tribunal is excessive and the same may be reduced by dismissing the appeal filed by the claimants.

10. On perusal of the evidence, it is clear that the deceased was aged about 19 years at the time of accident and he was an engineering student. Ex.A-7 to A-15 show that the deceased was brilliant student and good at education. Further, as contended by the learned counsel for the claimants, following the judgment of this Court in **Setty Chandrasekhar** (1 supra), wherein it was observed that the income of graduates in engineering etc., cannot be fixed less than Rs.12,000/- per month, the monthly income of the deceased can be taken at the rate of Rs.12,000/- per month i.e. Rs.1,44,000/- per annum; that since there are four claimants/dependents and that the deceased was an unmarried, as per **Smt. Sarla Varma v. Delhi Transport Corporation**[2]**,** 50% of his income is to be deducted towards personal expenses of the deceased. Then it comes to Rs.72,000/- per annum (Rs.1,44,000/- (-) Rs.72,000/-).

---

[2] (2009) 6 S.C.C. 121

11. Further, as per **National Insurance Company Limited Vs. Pranay Sethi[3],** claimants are entitled towards future prospects as the deceased being himself self-employed and aged below 40 years. Hence, the claimants are entitled for 40% future prospects, then it comes to Rs.1,00,800/- per annum (Rs.72,000/- + Rs.28,800/-); and that since the age of the deceased is 19 years, as per **Smt. Sarla Varma** (1 supra)**,** '18' multiplier is to be applied, then his total annual income comes to Rs.18,14,400/- (Rs.1,00,800 x 18).

12. Further, The Tribunal granted Rs.2,000/- towards loss of funeral and Rs.8,000/- towards loss of estate, totaling Rs.10,000/-. However, compensation granted under these heads is to be re-determined since the deceased was an unmarried person, the claimants are entitled to be granted compensation of Rs.30,000/- towards conventional head, which is covered all these heads, as per the decision of the Supreme Court in **Pranay Sethi** (1 supra). Hence, instead of granting Rs.10,000/- under these heads, fixed amount of Rs.30,000/- is granted to the claimants.

13. Further, as per **Magma General Insurance Company Limited v. Nanu Ram @ Chuhru Ram[4],** claimant Nos.1 and 2 being parents are also entitled for Rs.40,000/- each towards filial charges, which comes to Rs.80,000/-.

---

[3] 2017 (6) 170 (SC)
[4] 2018 Law Suit (SC) 904

14. So far as compensation granted towards discharging from repayment of loan amount i.e. Rs.52,637/- is concerned, the same is to be rejected since it is not evident whether the said amount has been paid or not, hence, the same is to be deducted.

15. Further, the Tribunal held that the claimant Nos.3 and 4 are entitled to get a sum of Rs.50,000/- each out of the compensation granted to the claimants. In my considered view, they cannot be entitled to get the said amount as they are not dependents of the deceased right from the beginning.

16. Therefore, the claimant Nos.1 and 2 are granted total compensation of Rs.19,24,400/- under various heads as follows:

Sl.No.	Name of Head	Awarded by Tribunal	Awarded by this Court
01.	Loss of income	Rs.2,40,000/-	Rs.18,14,400/-
02.	Loss of Estate	Rs. 8,000/-	Nil
03.	Funeral expenses	Rs. 2,000/-	Nil
04.	Conventional head	Nil	Rs. 30,000/-
05.	Loss of filial	Nil	Rs. 80,000/-
06.	Discharging from loan amount	Rs. 52,637/-	Nil
Total		Rs.3,02,637/- (Rs.3,00,000/-)	Rs.19,24,400/-

17. In the result, M.A.C.M.A.No.242 of 2006 filed by the claimants is allowed and M.A.C.M.A.No.1641 of 2007 filed by the insurer is partly allowed. The compensation awarded by the Tribunal is enhanced from Rs.3,00,000/- to Rs.19,24,400/- (Rupees Nineteen Lakhs Twenty Four Thousand and Four Hundred only). The enhanced amount of compensation shall carry interest at 7.5% per annum. The claimant Nos.1 and 2 are directed to pay the deficit Court Fee. The respondents are directed to deposit the enhanced amount

jointly and severally along with proportionate costs and interest within two months from the date of receipt of a copy of this order. On such deposit, the claimant Nos.1 and 2 are permitted to withdraw the entire amount. No costs.

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

JUSTICE T.AMARNATH GOUD

Date: 04.12.2019
kvr