

THE HONOURABLE SRI JUSTICE A. RAJASHEKER REDDY

MA.CMA. No. 3245 of 2005

JUDGMENT:

This appeal is filed by petitioners in M.V.O.P.No.265 of 2003 on the file of Chairman, Motor Accident Claims Tribunal-cum-Judge, Family Court, Secunderabad, for enhancement of compensation granted by Tribunal to a tune of Rs.67,000/-, vide order dated 30.11.2004, whereas they claimed a sum of Rs.2,00,000/- therefor.

It is the case of appellants that appellants are wife and son of Mr. G. Jalaiah; that on 10.06.2003, the said Jalaiah was going to his daughter's place and when he reached St. Anthony's Church, Secunderabad, at about 6.00 a.m., driver of respondent No.1 drove one Maruti Car bearing No.PY-1-K-7954053 in a rash and negligent manner and dashed the said Jalaiah, as a result of which, he sustained injuries all over his body, multiple fractures to left leg and severe injuries to shoulder; that immediately thereafter, he was shifted to Gandhi Hospital and died while undergoing treatment on 10.06.2003; that due to his death, appellants had lost all their future hopes and source of

income and thereby, they claimed compensation of Rs.2,00,000/- against respondents by way of filing O.P.

The Tribunal on appreciation of oral and documentary evidence, passed order dated 30.11.2004 awarding compensation of Rs.67,000/- to appellants. Against the said order, this appeal is filed.

Learned counsel for appellants submits that income of deceased was taken by Tribunal only at Rs.1,500/- per month, whereas income of deceased was Rs.200/- per day; that only meager amount was granted towards funeral expenditure and Rs.5,000/- only was granted towards consortium, whereas appellants are entitled to Rs.70,000/- towards conventional amount as per judgment of the Constitution Bench of Apex Court in **National Insurance Company Limited v. Pranay Sethi**¹ and that no amount was granted towards future prospects.

Heard learned Standing Counsel for insurance company appearing for respondent No.2 who opposed the enhancement of compensation.

It is to be seen that P.W.1 deposed that deceased was earning Rs.200/- per day as a rickshaw puller. But, Tribunal has taken income of deceased at Rs.1,500/- per month and as per

¹ (2017) 16 SCC 680

judgment of Apex Court in **Ramachandrappa v. The Manager, Royal Sundaram Aliance Insurance Company Ltd.**², income of a coolie can be taken at Rs.4,500/- per month even in the absence of proof of income and appellants are entitled to compensation towards loss of consortium, loss of estate, funeral expenditure, transportation etc., following the judgment of Apex Court, income of deceased can be taken at Rs.4,500/- per month. Then, annual income of deceased would be Rs.54,000/-, from which, 1/3rd should be deducted towards personal expenses of deceased. Thus, loss of contribution to family comes to Rs.36,000/- per annum. As the age of deceased is 70 years, as per the judgment of Apex Court in **Sarla Verma & Others v. Delhi Transport Corporation and another**³, appropriate multiplier would be '5'. Thus, total loss of contribution to family comes to Rs.1,80,000/- (Rs.36,000/-x5). Further, appellant No.1, who is son of deceased, is entitled to Rs.40,000/- towards parental consortium, and appellant No.2 being wife of deceased is entitled to Rs.40,000/- towards spousal consortium and appellants are entitled to Rs.30,000/- towards loss of estate, funeral expenses as per judgments of Apex Court in **Pranay Sethi** (1 supra) and **Magma**

² AIR 2011 SC 2951

³ (2009) 6 Supreme Court Cases 121

General Insurance Company Limited v. Nanuram and others⁴.

Thus, appellants are entitled to a total compensation of Rs.2,90,000/-.

The enhanced compensation is apportioned among appellants in proportion to the amounts granted to them by Tribunal.

In the result, this appeal is allowed in part, enhancing the compensation from Rs.67,000/- to Rs.2,90,000/-. Though claim is for Rs.2,00,000/-, there is no bar for granting just compensation in excess of claim (see **Nagappa v. Gurudayal Singh & Others⁵**). However, on the enhanced compensation of Rs.2,23,000/-, appellants are entitled to interest @ 7.5% per annum from the date of petition till realization. Tribunal is directed to deduct differential Court fee from enhanced compensation.

Consequently, Miscellaneous Petitions, if any pending, shall stand disposed of. No order as to costs.

A. RAJASHEKER REDDY, J

2nd APRIL, 2019.

kvni

⁴ 2018 ACJ 2782

⁵ (2003) 2 SCC 274