

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1440 OF 2006

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 12.06.2006 passed in M.V.O.P.No.60 of 2005 by the Motor Accident Claims Tribunal-cum-II Additional District Judge, at Warangal (for short, 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 petitioner is the wife of the deceased-Madishetty Sammaiah. On 07.04.2004 at about 9.00 p.m. the deceased boarded the RTC bus bearing No.AP 10Z/6869 at Nirmal in order to go to Armur and when the bus reached near Gamjal Village, the Tipper bearing No.AP 02T/6402 came in a rash and negligent manner with a high speed and dashed the bus due to which the deceased and two others died on the spot and some of them sustained injuries and they were shifted to the hospital and later four persons succumbed to the injuries while undergoing treatment. At the time of the accident, the deceased was working as a Lecturer in Sahakara Junior College, Laxmanachanda, Adilabad, and getting a net salary of Rs.6,200/- per month. Due to his sudden demise, the petitioner became destitute. The 1st respondent is the driver, 2nd respondent is the owner, 3rd respondent is the

insurer, the 4th respondent is the APSRTC and the 5th respondent is the mother of the deceased and she is not co-operating with the petitioner, as such she was impleaded as the 5th respondent. The accident occurred only due to the rash and negligent driving of the driver of the tipper bearing No.AP-02T/6402. Hence, the petitioner filed the claim petition claiming a compensation of Rs.8,40,000/- with interest @ 24% per annum and costs from the date of petition till the date of realization, payable by respondents 1 to 4.

4. Before the Tribunal, respondents 1, 2 & 4 were called absent and set *ex parte* on 06.12.2005.

5. The Respondent Nos.3 & 5 filed separate counters denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

6. The 5th respondent, who is the mother of the deceased, filed a counter stating that the deceased was her elder son and an earning member of the family and the petitioner left the house after the demise of her son, but she also received the other death benefits and filed the present claim petition without her knowledge only to deprive her from receiving her share of compensation and requested the Tribunal to award part of the entitled compensation to her.

7. 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 of the driver of the jeep bearing No.AP-25U-244 and on the strength of the evidence of P.Ws.1 & 2 and Exs.A-1 to A-9, the Tribunal granted total compensation of Rs.5,15,060/-, with interest @ 6% per annum from the date of petition till realization payable by respondents 1 to 3, i.e., Rs.4,80,060/- towards loss of dependency, Rs.15,000/- towards loss of consortium to the petitioner, Rs.15,000/- towards loss of estate and Rs.5,000/- towards transportation and funeral expenses and the claim petition against the 4th respondent is dismissed and an amount of Rs.1,00,000/- towards her share from the total compensation was apportioned to the 5th respondent. Dissatisfied with the quantum of compensation, the appellant filed the present appeal, seeking enhancement of the same.

8. Heard Mr.M.Madhava Reddy, learned counsel appearing for the appellant and Smt. S.N.Padmini, learned standing counsel appearing for the 3rd respondent/insurance company.

9. Though the claim is made for Rs.8,40,000/-, it is a bounden duty of this Court to award just and proper compensation. Before the Tribunal, the appellant filed Ex.A.7- salary certificate issued by the Principal of the Sahakara Junior College, Laxmanachanda, Adilabad, to show that the deceased was working as Lecturer and was getting salary of Rs.7,200/- per month salary. Therefore, this Court is inclined to take the income of the deceased at Rs.7,200/- per month. Apart from the same, the appellant is entitled to addition of 40% towards

future prospects, as per the decision of the Hon'ble Supreme Court in **National Insurance Co. Ltd. Vs. Pranay Sethi**¹. Therefore, the monthly income of the deceased comes to Rs.10,080/- (Rs.7,200/- + Rs.2,880/- (40%)), and after deduction of 1/3rd towards personal expenses of the deceased, the monthly income of the deceased comes to Rs.6,720/- (Rs.10,080/- - Rs.3,360/- (1/3)). Therefore, the annual income of the deceased comes to Rs.80,640/- (Rs.6,720/- x 12 months). Since the deceased was aged about 37 years, the multiplier for the age of the deceased is '15' as per the decision reported in **Sarla Verma and others v. Delhi Transport Corporation and Another**². Hence, the compensation under the head 'loss of dependency' comes to Rs.12,09,600/- (Rs.80,640/- x 15). Apart from the same, the appellant is also entitled to Rs.70,000/- towards conventional heads, as per the decision of the Hon'ble Supreme Court in **Pranay Sethi's case** (supra). Therefore, the total compensation comes to Rs.12,79,600/- (Rs.12,09,600/- + Rs.70,000/-). Insofar as the interest is concerned, for the amount awarded by the Tribunal, interest of 6% shall continue and with regard to the enhanced amount, interest of 7.5% shall be computed. Except the said modification, the order of the Tribunal remains unchanged.

10. In the result, the Motor Accident Civil Miscellaneous Appeal is allowed enhancing the compensation amount awarded by the Tribunal from Rs.5,15,060/- to Rs.12,79,600/- payable

¹ 2017(6) ALD 170 (SC)

² (2009) 6 SCC 121

by respondents 1 to 3 jointly and severally. The enhanced amount shall carry interest @ 7.5% per annum from the date of petition till realization. As the claimant claimed only Rs.8,40,000/-, she is directed to deposit deficit Court fee before the Tribunal. Insofar as sharing of compensation between the appellant and the 5th respondent is concerned, proportionate amount shall be shared between the claimant and the 5th respondent as awarded by the Tribunal. The respondents 1 to 3 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 appellant & the 5th respondent are permitted to withdraw their respective shares as awarded by the Tribunal, subject to payment of deficit court fee. Miscellaneous petitions pending, if any, shall stand closed. No costs.

As a sequel thereto, Miscellaneous Applications, if any, pending in this appeal shall stand disposed of.

T.AMARNATH GOUD, J

Date: 16th October, 2019

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