

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.3770 OF 2005

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 12.04.2002 passed in O.P.No.794 of 1998 by the Chairman, Motor Accidents Claims Tribunal-cum-Principal District Judge, Ranga Reddy District, at L.B. Nagar, Hyderabad (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 petitioner is husband of the deceased-M.Swarnalatha. On 02.06.1997, the petitioner along with his wife-Swarnalatha and two daughters-M.Shanthi and M.Divya, were proceeding in their Maruthi Car bearing No.AP 28G 5538 from Hyderabad towards Vijayawada and at about 7.30 A.M. at the outskirts of Narketpally on N.H. No.9, a lorry bearing No.AHK 4466 coming in the opposite direction from Vijayawada side came in a rash and negligent manner and dashed against Maruthi Car. Due to the said accident, the petitioner's wife died on the spot and after taking to the hospital, the daughter of the petitioner Shanthi succumbed to the injuries on the same day at about 10.30 a.m. and another daughter M.Divya succumbed at Yashoda Hospital, Hyderabad, 4 days later on 06.06.1997. Prior to the accident,

the deceased-M.Swarnalatha was aged about 40 years and earning Rs.2,000/- per month by doing tailoring and embroidery. Hence, the petitioner filed the claim petition claiming compensation of Rs.3,00,000/-, 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-12 & 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.1,68,480/- i.e., Rs.1,53,480/- towards loss of income and Rs.15,000/- towards loss of consortium, with interest @ 9% per annum from the date of petition till the date of deposit, payable by both the respondents. Dissatisfied with the quantum of compensation, the appellant filed the present appeal, seeking enhancement of the same.

6. Heard Sri V.Atchuta Ram, learned counsel for the appellant and Sri Ramachandra Reddy Gadi, learned standing counsel for the 2nd respondent/insurance company. Perused the material record.

7. Sri V.Atchuta Ram, learned counsel for the appellant, submitted that though it is stated by P.W.1 that the deceased was aged about 40 years and working as tailor and embroiderer and earning Rs.2,000/- by the time of the accident, the Tribunal has not considered the same. He further submitted that the appellant is also entitled to addition of 40% on the income of the deceased towards future prospects as per the ratio laid down by the Hon'ble Supreme Court in **National Insurance Co. Ltd. Vs. Pranay Sethi**¹.

8. Sri Ramachandra Reddy Gadi, 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, as per the evidence of P.W.1, the deceased was aged about 40 years and working as tailor and embroiderer and earning Rs.2,000/- by the time of the accident, but the Tribunal has erroneously taken the monthly income of the deceased @ Rs.1,000/- per month, which is very meager. Therefore, this Court is inclined to consider the salary of the deceased @ Rs.2,000/- per month. Apart from the same, since the deceased worked as a tailor and aged about 40 years as on the date of the accident, the appellant is also entitled to addition of 40% towards future prospects, as per the decision of the Hon'ble Supreme Court in **Pranay Sethi** (supra). Therefore, monthly

¹ 2017(6) ALD 170 (SC)

income of the deceased comes to Rs.2,800/- (Rs.2,000/- + Rs.800/- (40%)), and after deduction of 1/3rd towards personal deductions of the deceased, the monthly income of the deceased would come Rs.1,866/- (Rs.2800/- - Rs.934/- (1/3rd)). Therefore, the annual income of the deceased comes to Rs.22,392/- (Rs.1866/- X 12 months). 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 of 'loss of income' comes to Rs.3,35,880/- (Rs.22,392/- X 15). The appellant is also entitled to Rs.70,000/- towards conventional charges, as per **Pranay Sethi's** case (supra). Therefore, the total compensation comes to Rs.4,05,880/- (Rs.3,35,880/- + 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.1,68,480/- to Rs.4,05,880/-, 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 claimant claimed only Rs.3,00,000/-, he is 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 appellant is permitted to withdraw

² (2009) 6 SCC 121

the entire amount, 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: 24th October, 2019

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