

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1588 OF 2011

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 12.04.2010 passed in O.P.No.1104 of 2007 by the Chairman, Motor Accidents Claims Tribunal/Principal District Judge, Ranga Reddy District, at L.B. Nagar, Hyderabad (for short, the Tribunal).

2. The brief facts of the case are that appellants are parents of the deceased-P.Venkatramana Reddy, aged about 27 years, who died in a motor vehicle accident. On 16.02.2007 at about 1.30 p.m., at a place called Kothapet Cross Roads, within the limits of Saroornagar Police Station in Dilsukhnagar area, R.R. District, when the deceased was going on his motor cycle bearing No.AP 29C 7595 along with a pillion rider, he was hit by a DCM Van bearing No.AP 28W 7053 belonging to the 1st respondent and in the result, he suffered grievous injuries and ultimately died on 22.02.2007 while undergoing treatment in a hospital called Kamineni Hospital, L.B. Nagar, at Hyderabad. The deceased passed M.Sc. and was working as a Teacher in a private school and was also taking up tuition classes and earning in all Rs.9,500/- per month and due to the death of the deceased, the appellants lost the support of their son in their old age and also his earnings. Hence, the appellants filed the present claim petition claiming a compensation of Rs.10,00,000/-, payable by the respondents.

3. 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.

4. 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 DCM Van and awarded total compensation of Rs.4,19,000/-, with interest @ 7.5% per annum. Dissatisfied with the quantum of compensation, the appellants filed the present appeal, seeking enhancement of the same.

5. Sri Srinivas Polavarapu, learned counsel for the appellants, submitted that since the deceased was aged 29 years at the time of the accident, the appropriate multiplier as per **Sarla Verma and others v. Delhi Transport Corporation and Another**¹ is 17, but the Tribunal has taken the multiplier as 13. He further submitted that the appellants are 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**². He further submitted that in view of the judgment of the Hon'ble Supreme Court in **Magma General**

¹ (2009) 6 SCC 121

² 2017(6) ALD 170 (SC)

Insurance Co. Ltd. v. Nanu Ram Alias Chuhru Ram & Others³, appellants, being the parents of the deceased, are entitled to Rs.40,000/- each under the head of loss of Filial Consortium and the amount of Rs.15,000/- granted by the Tribunal towards Medical Expenses is very meager since the appellants have incurred a sum of Rs.89,775/- and prayed to allow the appeal.

6. Smt Patra Nireekshana, learned standing counsel appearing for respondent No.2, submitted that the Tribunal passed a well reasoned order and sought to dismiss the appeal.

7. In the facts and circumstances of the case, Since the Tribunal has fixed the notional income of the deceased at Rs.5,000/- per month, this Court is also inclined to take the notional income of the deceased at Rs.5,000/- per month. Apart from the same, the appellants are entitled to addition of 40% towards future prospects, as per the decision of the Hon'ble Supreme Court in **Pranay Sethi's case** (2 supra). Therefore, the monthly income of the deceased comes to Rs.7,000/- (Rs.5,000/- + Rs.2,000/-). After deduction of 50% towards personal expenses of the deceased since he was an unmarried person, the monthly income of the deceased comes to Rs.3,500/- (Rs.7,000/- x 50%). Therefore, the annual income comes to Rs.42,000/- (Rs.3,500/- x 12 months). The multiplier for the age of the deceased is '17' as per the decision reported in **Sarla Verma's case** (1 supra). Hence, the compensation under the head

³ 2018 LawSuit (SC) 904

'loss of income' comes to Rs.7,14,000/- (Rs.42,000/- x 17). Apart from the same, the appellants are entitled to Rs.30,000/- towards conventional heads, as per the decision of the Hon'ble Supreme Court in **Pranay Sethi's case** (2 supra). In the light of **Nanu Ram Alias Chuhru Ram's case** (3 supra), a sum of Rs.80,000/- (Rs.40,000/- X 2) is granted to the appellants under the head 'loss of Filial Consortium'. Since the amount granted by the Tribunal towards medical expenses is very meager, this Court feels that it would be just and proper to award an amount of Rs.89,775/- towards medical expenses. The amount granted by the Tribunal towards Transport charges at Rs.2,000/- remains the same. Therefore, the total compensation comes to Rs.9,15,775/- (Rs.7,14,000/- + Rs.30,000/- + Rs.80,000/- + Rs.89,775/- + Rs.2,000/-).

8. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed by enhancing the compensation amount awarded by the Tribunal from Rs.4,19,000/- to Rs.9,15,775/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of petition till realization. Miscellaneous petitions pending, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 18.07.2019

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