

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.2519 OF 2006

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 27-06-2006 passed in O.P.No.595 of 2001 by the IV Additional District Judge (FTC), Ranga Reddy (for short, the Tribunal).

2. The brief facts of the case are that appellant No.1 is the husband and appellant Nos.2 and 3 are the minor children of the deceased, Karnati Vanaja. On 31.05.2002 at about 10.00 AM., while the deceased was proceeding on a Luna bearing No.AAL 3759 as pillion rider along with her husband from Vanastalilpuram towards Hasthinapuram, and when they reached at Annapurna Hotel on Nagarjuna Sagar – Hyderabad road near B.N.Reddy Nagar cross roads, the lorry bearing No.AP13T 4685 proceeding on the same direction in high speed, rash and negligent manner and dashed the Luna from its back side. In the said accident, the deceased sustained injuries and was immediately shifted to Kamineni Hospital, L.B. Nagar, where she died while undergoing treatment. The claimants filed the above O.P., claiming compensation of Rs.5,00,000/- on account of death of the deceased.

3. Before the Tribunal, Respondent No.1-owner of the lorry, remained *ex parte*. Respondent No.3-insurance company, filed its counter denying the allegations made in the claim petition *inter alia* contending that the amount of compensation claimed by the

claimants is excessive, exorbitant, imaginary and out of proportion and therefore, sought to dismiss the petition.

4. After considering the oral and documentary evidence on record, the Tribunal came to the conclusion that the accident occurred due to the negligent driving of the lorry by its driver, and awarded a total compensation of Rs.3,54,000/- with interest @ 7.5% per annum. Dissatisfied with the Award passed by the Tribunal, the appellants filed the present appeal, seeking enhancement of the compensation.

5. Sri K.Veera Setty, learned counsel appearing for the appellants, submitted that the Tribunal has granted meager amount of Rs.3,54,000/- against the claim of Rs.5,00,000/- towards compensation, which needs to be enhanced. He further submitted that the appellants are entitled to addition of 40% on the income of the deceased towards future prospects and Rs.70,000/- towards conventional charges, as per the ratio laid down by the Hon'ble Supreme Court in **National Insurance Co. Ltd. Vs. Pranay Sethi**¹. He further submitted that in view of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Co. Ltd. V. Nanu Ram Alias Chuhru Ram & Others**², appellant Nos.2 and 3 are entitled to Rs.50,000/- each under the head loss of parental consortium.

¹ 2017(6) ALD 170 (SC)

² 2018 Law Suit (SC) 904

6. Sri N.J.Sunil Kumar, learned Standing Counsel for respondent No.2, submitted that the Tribunal passed a well reasoned order and sought to dismiss the appeal.

7. Though no proof of income of the deceased was filed, this Court is inclined to fix the income of the deceased at Rs.3,000/- per month notionally. Apart from the same, the appellants are entitled to addition of 40% towards future prospects, as per **Pranay Sethi's** case (supra). Therefore, monthly income of the deceased comes to Rs.4,200/- (Rs.3,000/- + Rs.1,200/-), and after deduction of 1/3rd, as the dependants are three in number, the annual income comes to Rs.33,600/- (Rs.2,800/- X 12). As the deceased was aged about 25 years as per Ex.A.4 post mortem report, the appropriate multiplier is '18'. Hence, the compensation under the head 'loss of dependency' comes to Rs.6,04,800/- (Rs.33,600/- X 18). Apart from the same, the appellants are entitled to Rs.70,000/- towards conventional heads, as per **Pranay Sethi's** case (supra). As appellant Nos.2 and 3 are minor children, they are entitled to Rs.50,000/- each towards parental consortium, as per **Nanu Ram Alias Chuhru Ram's** case (supra). Therefore, the total compensation comes to Rs.7,74,800/- (Rs.6,04,800/- + Rs.70,000/- + Rs.1,00,000/-).

8. In the result, the Motor Accident Civil Miscellaneous Appeal is allowed, enhancing the compensation amount awarded by the Tribunal from Rs.3,54,000/- to Rs.7,74,800/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of

claim petition till realization. As the claimants claimed only Rs.5,00,000/-, they are directed to deposit deficit Court fee before the Tribunal. Miscellaneous petitions pending, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 06.11.2019
Shr

