THE HONOURABLE SRI JUSTICE A. RAJASHEKER REDDY

MA.CMA. No.3337 of 2005

JUDGMENT:

This appeal is filed by petitioners in O.P.No.711 of 2003 on the file of Chairman, Motor Accident Claims Tribunal-cum-District Judge, Karimnagar, for enhancement of compensation granted by Tribunal to a tune of Rs.5,85,000/- whereas they claimed a sum of Rs.13,00,000/- therefor.

It is the case of appellants that appellant Nos.1 & 2 are wife and son and appellant Nos.3 & 4 are parents of Mr. Vidyasagar; that on 03.03.2003, the said Vidyasagar was going to Karimnagar from Kothapally on his Suzuki Motor Cycle to attend an urgent work at his office and when he reached the petrol bunk in the outskirts of Kothapally Village, an APSRTC Bus bearing No.AP10 Z 4807, driven by its driver, respondent No.1, came in an opposite direction and dashed his motor cycle, as a result of which, the said Vidyasagar sustained fatal injuries and died on the spot; the deceased was working as Engineer in Panchayat Raj Department; that due to his death, appellants had lost all their future hopes and source of income and thereby, they claimed compensation of Rs.13,00,000/- against respondents by way of filing O.P.

The Tribunal on appreciation of oral and documentary evidence, awarded compensation of Rs.5,85,000/- to appellants. Against the said order, this appeal is filed.

Learned counsel for appellants submits that deceased was working as Assistant Engineer and aged 41 years and as per judgment of Apex Court in **Yerramma and others v. G. Krishnamurthy and another[1],** gross income of deceased is to be considered for computing loss of dependency but Tribunal erroneously took monthly salary of deceased at Rs.5,000/-; that Tribunal deducted 1/3rd from income of deceased towards his personal expenditure but as appellants are 4 in number, 1/4th of income had to be deducted towards personal expenses of deceased as held by Apex Court in **Sarla Verma and others v. Delhi Transport Corporation and another[2]**; that though appellants are entitled to an amount of Rs.70,000/- towards loss of estate, loss of consortium and funeral expenditure, Tribunal granted only Rs.10,000/- towards consortium; that Tribunal granted only Rs.5,000/- each to appellant Nos.2 to 4 under the head of loss of love and affection and that no amounts were granted by Tribunal towards funeral expenditure as well as future prospects.

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[1] AIR 2015 SUPREME COURT 1145
[2] (2009)6 SCC 121

On the other hand, learned Standing Counsel for respondent Corporation appearing for respondents submits that Tribunal has rightly taken income of deceased and granted just compensation, as such, no interference by this Court is called for in impugned order.

It is to be seen that Tribunal erroneously took average net salary of deceased at Rs.5,000/- per month on the ground that there were no deductions made in the salary but in **Yerramma** (1 supra), Apex Court held that gross income is to be considered for computing loss of dependency, as such, gross salary of deceased at Rs.9,521/-, as evident from Ex.A.7 – salary certificate of deceased, is to be taken into consideration. Further, as per judgment of a Constitution Bench of Apex Court in **National Insurance Company Limited v. Pranay Sethi**[3], 30% of income of deceased is to be added towards future prospects since deceased is aged 41 years. Further, appellants are four in number, as such, 1/4th should be deducted towards personal expenses of deceased from his income. For the age of deceased, as per the judgment of Apex Court in **Sarla Verma** (2 supra), appropriate multiplier is '14'. It is to be noted that as per **Pranay Sethi** (3 supra), appellant No.1 is entitled to Rs.40,000/- towards consortium instead of Rs.10,000/- as was granted by Tribunal and

[3] (2017) 16 SCC 680

Rs.30,000/- may be awarded towards loss of estate and funeral expenses. Further, Tribunal granted Rs.5,000/- each to appellant Nos.2 to 4 towards love and affection, but, in view of judgment of Apex Court in **Magma General Insurance Company Limited v. Nanuram and others**[4], appellant No.2, who is son of deceased, is entitled to Rs.50,000/- towards parental consortium. However, the total compensation is as follows:

	Heads	Amount
(i)	Income	Rs. 1,14,252/-
(ii)	Deduction towards personal expenditure(1/4th of Rs.1,14,252/-)	Rs. 85,689/-
(iii)	Future prospects (30% of the income)	Rs. 1,11,396/-
(iv)	Loss of contribution to family (Rs.1,11,396/- X 14)	Rs. 15,59,554/-
(v)	Consortium to appellant No.1	Rs. 40,000/-
(vi)	Loss of estate and funeral expenses	Rs. 30,000/-
(vii)	Loss of parental consortium to appellant No.2	Rs. 50,000/-
	Total	Rs.16,79,544/-

The enhanced compensation is apportioned among appellants in proportion to the amounts granted to them by Tribunal except Rs.40,000/- granted to wife of deceased towards consortium and Rs.50,000/- to son towards parental consortium.

[4] 2018 ACJ 2782

In the result, this appeal is allowed in part, enhancing the compensation from Rs.5,85,000/- to Rs.16,75,544/-. However, on the enhanced compensation of Rs.10,90,544/-, appellants are entitled to interest @ 7.5% per annum from the date of petition till realization. Tribunal is directed to deduct differential Court fee on deposit of enhanced compensation.

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

A. RAJASHEKER REDDY, J

2nd APRIL, 2019.

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