

HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1625 of 2009

JUDGMENT:

This appeal is filed by the appellant-claimants aggrieved by the Order and Decree dated 16-04-2008 passed in O.P.No.1444 of 2006 by the Motor Vehicle Accidents Claims Tribunal-cum-XII Additional Chief Judge (FTC), City Civil Court, Hyderabad (for short, the Tribunal).

2. Brief facts of the case are that on 24-05-2006 at about 5.15 pm, when the deceased-Pratap V Gajanana along with his father riding his motorcycle and when they reached near Ganesh Gudla, one RTC bus bearing No.AP 11Z 1394 came in a rash and negligent manner with a high speed from their behind and rammed into their vehicle, due to which, he died on the spot. Since the accident occurred due to negligent driving of the driver of the RTC bus, the claimants who are the parents of the deceased filed the claim petition claiming compensation of Rs.4.00 lakhs against the respondent Nos.1 and 2-APSRTC contending that the deceased was a student and also working in a private company earning Rs.5,000/- per month.

3. In the claim petition, the respondents-RTC filed their 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 on the part of the driver of the crime vehicle only. So far as granting of compensation is concerned, the Tribunal granted an amount of Rs.3,24,500/- i.e. Rs.3,12,000/- towards loss of income; Rs.10,000/- towards love and affection and Rs.2,500/- towards funeral expenses. Accordingly, it partly allowed the claim petition granting total compensation of Rs.3,24,500/- with interest at 6% per annum through out.

5. Dissatisfied with the quantum of compensation, the appellants/claimants filed the present appeal, seeking for enhancement of the compensation.

6. Heard the learned counsel for the appellant-claimant and the learned Standing Counsel for the 2nd respondent-insurer.

7. Learned counsel for the appellants-claimants contends that it is a case of death and at the time of accident, the deceased was aged about 19 years and earning Rs.5,000/- per month by working in a private organization. He further contends that the Tribunal erred in awarding compensation of Rs.3,12,000/- by taking monthly income at Rs.3,000/- per month only. He further contends that Tribunal also ignored in awarding compensation under the additional heads like loss of filial and conventional etc. Therefore, the claimant is entitled for fair compensation.

8. Sri N.Vasudeva Reddy, learned Standing Counsel for the respondents-RTC, contends that the Tribunal awarded compensation in a

just and proper manner and he supported the order passed by the Tribunal and prayed to dismiss the appeal.

9. As seen from the order of the Tribunal, the Tribunal has taken monthly income of the claimant as Rs.3,000/- per month. Admittedly, there is no dispute with regard to the deceased was working in a private organization and earning some income as deposed by P.W.1. As per the decision of the Supreme Court in **Ramchandrapa Vs. Manager, Royal Sundaram Aliance Insurance Co. Ltd.**¹, wherein, the Supreme Court held that in case of labour, minimum wages can be taken as Rs.150/- per day. But however since there is no proof with regard to his education or income produced by the claimants, taking an amount of Rs.3,500/- per month as notional income before fixing the loss of income is reasonable in my considered view.

10. In spite of that, as per the decision of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi**², the deceased is entitled to be granted future prospects at 40%. Then his monthly income comes to Rs.4,900/- (3500 + 1400) per month i.e. Rs.58,800/- per annum; Considering the number of dependents of the deceased, 50% towards personal expenditure can be deducted out of the said income, then it comes to Rs.29,400/- per annum. Further, since at the time of accident, the deceased was aged about 19 years, the Tribunal has rightly taken multiplier

¹ 2011 (6) ALD 75 (SC)

² 2017 (6) 170 (SC)

‘18’. Hence, the total loss of income in respect of the contribution towards his family members comes to Rs.5,29,200/- (29400 x 18).

11. Further, since the deceased was a bachelor, the claimants are also entitled to be granted compensation of Rs.30,000/- towards conventional head as per the decision of the Supreme Court in **National Insurance Company Limited v. Pranay Sethi**³.

12. Further, being parents of the deceased, the claimants are also entitled to be granted compensation of Rs.80,000/- (Rs.40,000/- each) towards loss of filial as per the decision of the Supreme Court in **Magma General Insurance Company Limited v. Nanu Ram @ Chuhru Ram**⁴.

13. Except the above modification, the compensation awarded by the Tribunal under other heads shall remain unchanged. Therefore, the claimants are granted total compensation of Rs.6,51,700/- (rounded off to Rs.6,52,000/-) under various heads as follows:

Sl.No.	Name of Head	Awarded by Tribunal	Awarded by this Court
01.	Loss of income	Rs.3,12,000/-	Rs.5,29,200/-
02.	Love and affection	Rs.10,000/-	Rs.10,000/-
03.	Funeral expenses	Rs.2,500/-	Rs.2,500/-
04.	Conventional head	Nil	Rs.30,000/-
05.	Loss of filial	Nil	Rs.80,000/-
Total		Rs.3,24,500/-	Rs.6,51,700/- (Rs.6,52,000/-)

14. In the result, the appeal is allowed by enhancing the compensation awarded by the Tribunal from Rs.3,24,500/- to Rs.6,52,000/- (Rupees Six Lakhs Fifty Two Thousand only). The enhanced amount of

³ 2017 (6) 170 (SC)

⁴ 2018 Law Suit (SC) 904

compensation shall carry interest at 7.5% per annum. The appellants/claimants are directed to pay Court Fee for the enhanced amount of compensation. The respondents are directed to deposit the enhanced amount along with proportionate costs and interest within two months from the date of receipt of a copy of this order. On such deposit, the appellants/claimants are permitted to withdraw the entire amount. No costs.

15. Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE T.AMARNATH GOUD

Date: 06.08.2019

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