HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1257 of 2006

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 16-01-2006 passed in M.O.P.No.123 of 2002 by the Motor Vehicle Accidents Claims Tribunal-cum- District Judge, Ranga Reddy District, at L.B.Nagar, Hyderabad (for short, the Tribunal).

2. Brief facts of the case are that on 30-05-2001 at about 4.30 pm, when the deceased-Mamidla Renuka along with her children was traveling in a jeep bearing No.ATS 5030 to go to their native place Pillaipally village and when they reached near Abdullapurmet X roads, one tanker lorry bearing No.AP 11 U 9495 came at a high speed in a rash and negligent manner from opposite direction and dashed against the jeep, due to which, the deceased and other inmates of the jeep sustained multiple injuries and after shifted to hospital, she succumbed to the injuries. Hence, the claimant Nos.1 to 4, who are the husband and children, filed the claim petition claiming compensation of Rs.4.00 lakhs against the respondent Nos.1 and 2-owner and insurer of the crime vehicle for the death of the deceased.

3. In the claim petition, the 2nd respondent-insurer 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 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.2,05,000/- i.e. Rs.1,70,000/- towards loss of dependency; Rs.15,000/- towards loss of consortium; Rs.15,000/- towards loss of estate and Rs.5,000/- towards transport, medical and funeral expenses. Accordingly, it partly allowed the claim petition granting total compensation of Rs.2,05,000/- payable by the respondents jointly and severally, with interest at 7.5% 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 appellants-claimants 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 30 years and earning Rs.4,500/- per month by doing cultivation and she is rendering services to the family as a house wife. Hence, he prayed for fair compensation.

8. Sri P.Harinath Guptha, learned Standing Counsel for the 2nd respondent-insurer, contends that the order passed by the Tribunal is just and proper and needs no interference and that in the absence of proof of income, the notional income which was considered by the Tribunal in fixing Rs.15,000/- per annum is just and proper and prayed to dismiss the appeal.

9. As seen from the order of the Tribunal, the Tribunal has taken annual income of the deceased at the rate of Rs.15,000/- as she was a non-earning member. Admittedly, in cases of absence of proof of income, notional income at the rate of Rs.3,500/- per month is being considered. However, as per the decision of the Supreme Court in **Ramchandrappa Vs. Manager, Royal Sundaram Aliance Insurance Co. Ltd.**[1]**,** wherein, the Supreme Court held that in case of labourer, minimum wages can be taken as Rs.150/- per day. Hence, in the present case, since there is no proof with regard to her education or income produced by the claimants, taking an amount of Rs.3,000/- per month as notional income before fixing the loss of dependency 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 claimants are entitled to be granted future prospects at 40%. Then her monthly income comes to Rs.4,200/- (3000 + 1200) per month i.e. Rs.50,400/- per annum; Considering the four number of dependents

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[1] 2011 (6) ALD 75 (SC)
[2] 2017 (6) 170 (SC)

of the deceased, 1/4th towards personal expenditure can be deducted out of the said income, then it comes to Rs.37,800/- per annum. Further, since at the time of accident, the deceased was aged about 30 years, the Tribunal has rightly taken multiplier '17'. Hence, the total 'loss of dependency' in respect of the contribution towards her family members comes to Rs.6,42,600/- (37,800 x 17).

11. Further, The Tribunal granted Rs.15,000/- towards loss of consortium and Rs.15,000/- towards loss of estate totaling Rs.30,000/-. However, compensation granted under these heads is to be re-determined since the deceased was a married person, the claimants are entitled to be granted compensation of Rs.70,000/- towards conventional head, which is covered all these heads, as per the decision of the Supreme Court in **Pranay Sethi** (1 supra). Hence, instead of granting Rs.30,000/- under all these heads, an amount of Rs.70,000/- is granted to the claimants.

12. Further, being minor children of the deceased, the claimant Nos.2 to 3 are also entitled to be granted compensation of Rs.1,50,000/- (Rs.50,000/- each) towards loss of filial as per the decision of the Supreme Court in **Magma General Insurance Company Limited v. Nanu Ram @ Chuhru Ram[3].**

13. Except the above modification, the compensation awarded by the Tribunal i.e. Rs.5,000/- towards transportation etc. shall remain unchanged. Therefore, the claimants are granted total

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[3] 2018 Law Suit (SC) 904

compensation of Rs.8,67,600/- (rounded off to Rs.8,68,000/-) i.e. Rs.6,42,600/- towards loss of dependency; Rs.70,000/- towards conventional; Rs.1,50,000/- towards filial; and Rs.5,000/- towards transportation etc.

14. In the result, the appeal is allowed by enhancing the compensation awarded by the Tribunal from Rs.2,05,000/- to Rs.8,68,000/- (Rupees Eight Lakhs Sixty Eight Thousand only). The enhanced amount of compensation shall carry interest at 7.5% per annum. The appellants/claimants are directed to pay deficit Court Fee. 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: 05.11.2019
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