

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.29 OF 2011

JUDGMENT:

This appeal is filed by the appellants – claimants aggrieved by the order dated 19.10.2010 in M.V.O.P.No.16 of 2009 passed by the Motor Accident Claims Tribunal-cum-I Additional Chief Judge, City Civil Court, Secunderabad (for short, the Tribunal), whereby the Tribunal awarded compensation of Rs.1,39,500/- on account of death of the deceased, P. Laxmi, in a motor vehicle accident occurred on 29.06.2008.

2. The appellants herein are the petitioners and the respondents herein are the respondents before the Tribunal.

3. For the sake of convenience, the parties herein are referred to as they were arrayed before the Tribunal.

4. Petitioner No.1 - husband and petitioner Nos.2 to 4 - children of the deceased filed the above M.V.O.P. claiming compensation of Rs.4,00,000/- for the death of P.Laxmi, who was aged 50 years and was earning Rs.4,500/- per month as daily wage labourer. On 29.06.2008 at about 6:50 A.M., when the deceased with along with her son, who was riding a bike, returning to their home after attending her husband at Andhra Mahila Sabha Hospital, Vidyanagar, who was undergoing treatment, one Ready Mix Lorry bearing No.AP 10U 9539 came in a rash and negligent manner from backside and dashed the motor cycle, as a result of which the deceased, P. Laxmi, received severe head injury. Immediately, she was shifted to AMS Hospital and after having first aid, she was shifted to Care Hospital, Musheerabad, where the

Doctors declared her as dead. Petitioners are dependent on the income of the deceased and they suffered a lot of mental agony due to her sudden death.

5. Respondent No.1 is the owner of the crime vehicle and respondent No.2 is the insurer. Respondent No.1 remained *ex parte* and respondent No.2 filed its counter denying all the allegations made in the claim petition and prayed to dismiss the same.

6. The Tribunal, after considering the evidence on record that the accident was occurred due to rash and negligent driving of the driver of lorry, awarded compensation of Rs.1,39,500/- with proportionate costs and interest at 7.5% per annum . The Tribunal has taken the income of the deceased at Rs.15,000/- per annum and deducted 1/3rd and applied multiplier '13', which worked out to Rs.1,30,000/-. The Tribunal has also granted Rs.5,000/- towards loss of consortium, Rs.2,000/- towards funeral expenses and Rs.2,500/- towards loss of estate and, in total, an amount of Rs.1,39,500/- was awarded.

7. Admittedly, this Court feels it appropriate to take a notional income of Rs.3,000/- per month towards the income of the deceased, since the deceased was daily wage labourer and had no proof of income. Hence, the annual income comes to Rs.36,000/- (Rs.3,000/- X 12) and after deducting 1/3rd, it comes to Rs.24,000/- and applicable multiplier is '13'. As per the decision of the Supreme Court in **NATIONAL INSURANCE COMPANY**

LIMITED v. PRANAY SETHI¹, an amount of Rs.70,000/- is granted under conventional heads. Therefore, the petitioners are awarded a total compensation of Rs.3,82,000/- (Rs.24,000/- X 13 + Rs.70,000/-) with interest at 7.5% per annum on the enhanced amount.

8. In the result, the appeal is allowed in part enhancing the compensation amount from Rs.1,39,500/- to Rs.3,82,000/- with interest at 7.5% per annum on the enhanced amount. There shall be no order as to costs. Miscellaneous petitions pending, if any, shall stand dismissed.

T. AMARNATH GOUD, J

Date:04.07.2019

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¹ AIR 2017 SC 5157