

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

MACMA NO. 347 OF 2011

JUDGMENT:

This appeal is directed against the award dated 21.01.2006 passed by the Motor Accidents Claims Tribunal-cum-II-Additional District Judge, Mahabubnagar (for short 'the Tribunal), in M.V.O.P.No.368 of 2000, whereby the Tribunal awarded compensation of Rs.2,00,000/- on account of the death of the deceased - Raju, aged 18 years, on 19.03.2000 in a motor vehicle accident that occurred on 08.03.2000 as against the claim of Rs.3,00,000/-.

2. For the sake of convenience, the parties are hereinafter referred to as arrayed in the Tribunal.

3. Being dissatisfied with the quantum of compensation awarded by the Tribunal, the claimants, who are parents of the deceased preferred this appeal on the ground that the Tribunal erred in taking the income of the deceased at Rs.100/- per day, erred in awarding sum of Rs.10,000/- towards expenses incurred as inpatient in Government Hospital, Kurnool for 10 days, erred in came to the conclusion that there was negligence on the part of the deceased, erred in granting interest from the date of petition and erred in granting Rs.30,000/- towards loss of love and affection to the parents.

4. The brief facts of the case are that on 08.03.2000 at about 9 AM when the deceased was going on left side of the road to reach his village, the driver of the car bearing No.AP 9 P 18, which was owned by the Government of Andhra Pradesh, drove it in rash and negligent manner and dashed one Raju, aged 18 years, causing serious injuries. Immediately the said Raju shifted to Kurnool Government Hospital in the same car. While undergoing treatment the said Raju died on 19.03.2000.

5. The Tribunal, on appreciation of evidence, both oral and documentary, let in by the parties, held that the accident occurred due to rash and negligent driving of the driver of the Government vehicle and also there is negligence on the part of the deceased in crossing the road. The Tribunal while granting compensation deducted Rs.16,000/- towards negligence on the part of the deceased in crossing the road.

6. There is no dispute with regard to the manner of accident and involvement of vehicle. So far as calculating the compensation, the deceased was aged 15 years as held by the tribunal, an amount of Rs.3,000/- per month can be taken as notional income of the deceased. As per the decision of the Apex Court in **National Insurance Company Ltd. V Pranay Sethi**¹, the claimants are entitled to addition of 40% towards future prospects. Thus, the monthly income of the deceased comes to Rs.4,200/- (Rs.3,000/- + Rs.1200/-) and after deducting 50% towards his personal expenses being unmarried, as per the decision of the

¹ 2017(6) ALD 170 SC

Apex Court in **Rajesh v Rajbir Singh**², the monthly income of the deceased comes to Rs.2,100/-. Thus, the annual income of the deceased comes to Rs.25,200/-. As per the decision of the Apex Court in **SARALA VERMA AND OTHERS v DELHI TRANSPORT CORPORATION AND ANOTHER**³, when the age of the deceased is '15', as taken by the Tribunal, the relevant multiplier is '18', but not '17'. The loss of dependency comes to Rs.4,53,600/- (Rs.25,200/- x 18). In view of the decision of the **Pranay Sethi's** case referred supra, the claimants are entitled for Rs.30,000/- towards conventional heads. As per the decision of the Apex Court in **Magma General Insurance Co. Ltd v Nanu Ram alias Churhru Ram**⁴ the claimants are entitled for Rs.40,000/- each, being parents as loss of filial. Rs.16,000/- has to be deducted towards negligence on the part of the deceased in crossing the road, which was held by the Tribunal holds good. Thus, the appellants are entitled for a total compensation of Rs.5,47,600/- (Rs. 4,53,600/- + Rs.40,000/- +Rs.40,000/- + Rs.30,000/- minus Rs.16,000/-) (Rupees five lakhs forty five thousands only). The compensation amount shall carry interest @ 7.5% from the date of petition till the date of realization. The respondents 1 and 2 are directed to deposit the compensation amount jointly and severally within three months from the date of this judgment. The compensation is recoverable from the Government or from the amount in the custody of Additional Director General of Police, Police Transport Organization, Hyderabad, who claimed ownership of the vehicle,

² 2013(9) SCC 54

³ 2009 ACJ 1298

⁴ 2018 Law Suit (SC) 904

jointly and severally. The claimants have to pay deficit court fee on over and above Rs.3,00,000/- and if the deficit court fee not paid as per Rule 475 of the M.V. Rules before the Tribunal, the claimants cannot be permitted to execute for the enhanced amount.

7. With the above direction, the appeal is allowed. There shall be no order as to costs.

Miscellaneous petitions if any pending in this appeal shall stand dismissed.

Date: 31.07.2019
kvrn

T.AMARNATH GOUD,J

