

HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.223 of 2011

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 15-11-1997 passed in O.P.No.897 of 1993 by the II Additional Chief Judge, City Civil Court, Hyderabad (for short, the trial Court).

2. Brief facts of the case are that the claimants, who are the legal heirs of the deceased-K Sudhakar Reddy, filed the claim petition against the respondents claiming compensation of Rs.2.00 lakhs for the death of the deceased in the accident occurred on 03-07-1993 due to the rash and negligent driving of the driver of the military truck bearing No.A.87-D 74191, when he is proceeding on his cycle at Public Garden, Hyderabad.

3. In the claim petition, the respondents filed their written statement 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 Trial Court 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 and accordingly, granted compensation of Rs.92,600/- i.e. Rs.77,580/- towards future loss of income and

Rs.15,000/- towards loss of estate, payable by all the respondents jointly and severally, with interest at 12% 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 1st 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 25 years and according to his salary certificate, he was earning Rs.2,250/- per month. He contends that the trial Court erred in taking appropriate multiplier. He further contends that the claimants are also entitled for compensation towards conventional and filial charges and therefore prayed for fair compensation.

8. Learned Standing Counsel for the respondents-insurer, contends that the Trial Court awarded compensation in a just and proper manner and he supported the order passed by the Trial Court and prayed to dismiss the appeal.

9. As seen from the order of the Trial Court, the Trial Court has taken monthly income of the deceased at the rate of Rs.2250/- per month i.e. 27000/- p.a. based on the Salary Certificate adduced by the claimants. There is no dispute about it. However, the Trial Court deducted 1/3rd of the said amount towards personal expenses. But

since the deceased was an unmarried, the personal expenses have to be deducted at the rate of 50% instead of 1/3rd. Then his annual income comes to Rs.13,500/-.

10. In spite of that, as per the decision of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi**¹, the deceased is entitled to be granted future prospects at 40%. Then his annual income comes to Rs.18,900/- (13,500 + 5,400). Further, since at the time of accident, the deceased was aged about 25 years, the appropriate multiplier as per **Sarla Verma and others v. Delhi Transport Corporation and another**², is '18' instead of '4.31' as applied by the Trial Court. Hence, the total loss of dependency in respect of the contribution towards his family members comes to Rs.3,40,200/- (18,900 x 18).

11. Further, The Trial Court granted Rs.15,000/- towards loss of estate. However, compensation granted under this head is to be re-determined since the deceased was an unmarried person, the claimants are entitled to be granted compensation of Rs.70,000/- towards conventional head, which is covered loss of estate as per the decision of the Supreme Court in **Pranay Sethi** (2 supra). Hence, instead of granting Rs.15000/- under this head, an amount of Rs.70,000/- is granted to the claimants.

¹ 2017 (6) 170 (SC)

² 2009 (4) SCJ 91 = 2009 (6) SCC 121

12. Further, being mother of the deceased, the 2nd appellant is also entitled to be granted compensation of Rs.40,000/- 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. Therefore, the claimants are granted total compensation of Rs.4,50,200/- (i.e. Rs.3,40,200/- (+) Rs.70,000/- (+) Rs.40,000/-), rounded off to Rs.4,50,000/-.

14. In the result, the appeal is allowed by enhancing the compensation awarded by the Trial Court from Rs.92,600/- to Rs.4,50,000/- (Rupees Four Lakhs and Fifty Thousand only). The enhanced amount of compensation shall carry interest at 7.5% per annum. Since the 1st appellant, father of the deceased, during pendency of the proceedings, has died, his share of compensation is to be distributed equally among other two appellants. 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.

³ 2018 Law Suit (SC) 904

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

JUSTICE T.AMARNATH GOUD

Date: 24.12.2019

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