

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1469 OF 2006

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Judgment and Decree dated 20-02-2006 passed in M.V.O.P.No.2719 of 2003 by the Additional Metropolitan Sessions Judge for the Trial of Communal Offence Cases-cum-Motor Vehicle Accident Claims Tribunal-cum- XXI Additional Chief Judge, Hyderabad (for short, the Tribunal).

2. The brief facts of the case are that appellant No.1 is the wife, appellant No.2 is the minor daughter, appellant No.3 is the father and appellant No.4 is the mother of the deceased, Kalletla Yadaiah. On 26.09.2003 at about 9.30 A.M., while the deceased was proceeding on Hero Honda Motorcycle bearing No.AP9A 4129 as a pillion rider from Hyderabad towards Takkuguda, and when he reached near Dargah Pahadishariff, Ranga Reddy District, lorry bearing No.ATT 6655, came in opposite direction with high speed, in a rash and negligent manner, driven by its driver, dashed against the motorcycle, due to which, the deceased fell down on the road, sustained multiple injuries and died on the spot. The claimants filed the above M.V.O.P., claiming compensation of Rs.14,00,000/- on account of death of the deceased.

3. Before the Tribunal, Respondent No.1-owner of the lorry, remained *ex parte*. Respondent No.2-insurance company, filed its counter denying the allegations made in the claim petition *inter alia* contending that the amount of compensation claimed by the

claimants is excessive, exorbitant, imaginary and out of proportion and therefore, sought to dismiss the 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 of the driver of the lorry, and awarded a total compensation of Rs.6,75,000/- with interest @ 7.5% per annum. Dissatisfied with the judgment passed by the Tribunal, the appellants filed the present appeal, seeking enhancement of the compensation.

5. Heard.

6. Sri T.Damodar, learned counsel appearing for the appellants, submitted that the Tribunal has granted meager amount of Rs.6,75,000/- against the claim of Rs.14,00,000/- towards compensation, which needs to be enhanced. He further submitted that the deceased was working as Lecturer in SGM Junior College, Tukuguda and earning Rs.8,646/- per month. He further submitted that the appellants are also entitled to addition of 40% on the income of the deceased towards future prospects and Rs.70,000/- towards conventional charges, as per the ratio laid down by the Hon'ble Supreme Court in **National Insurance Co. Ltd. Vs. Pranay Sethi**¹. He further submitted that in view of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Co. Ltd. V. Nanu Ram Alias Chuhru Ram & Others**², appellant No.2 is entitled to Rs.50,000/- and appellant Nos.3 and 4 are entitled to Rs.40,000/- each under the head loss of filial consortium.

¹ 2017(6) ALD 170 (SC)

² 2018 Law Suit (SC) 904

7. Sri A.V.V.S.Pradad, learned counsel appearing for respondent No.2, submitted that in the absence of any supporting evidence spoken to by P.W.3, Ex.A7 salary certificate cannot be considered. He further submitted that the deceased was aged about 28 years at the time of accident and the appropriate multiplier as per the decision of the Hon'ble Supreme Court in **Smt. Sarla Varma Vs. Delhi Transport Corporation**³, is '17', but the Tribunal wrongly took the multiplier '18'. He further submitted that except the same, there are no grounds to interfere with the order of the Tribunal and sought to dismiss the appeal.

8. Admittedly, the deceased was working as Lecturer in SGM Junior College, Tukluguda and earning Rs.8,646/- per month and in proof of his income, the appellants filed Ex.A7 salary certificate and therefore, the said salary can be taken in consideration for the purpose of arriving income of the deceased. The appropriate multiplier as per the decision of the Apex Court in **Smt.Sarla Varma's** case (supra), basing on the age of the deceased at 28 years, is '17'. Apart from the same, the appellants are entitled to addition of 40% towards future prospects, as per the decision of the Hon'ble Supreme Court in **Pranay Sethi** (supra). Therefore, the monthly income of the deceased comes to Rs.12,104/- (Rs.8,646 + 40% future prospects) and after deducting 1/4th of the income for his personal expenses, the loss of dependency comes to Rs.18,51,912/- (9,078/- x 12 x 17). The appellants are also entitled to Rs.70,000/- towards conventional charges, as per **Pranay Sethi's** case (supra). In the light of **Nanu Ram's** case

³ 2009 (6) SCC 1211

(supra), the appellant No.2, being the minor daughter of the deceased is entitled to Rs.50,000/- and appellant Nos.3 and 4 being the parents of the deceased, are entitled to Rs.80,000/- (Rs.40,000/- each) towards loss of filial consortium. Therefore, the total compensation comes to Rs.20,51,912/- (Rs. 18,51,912/- + Rs.70,000/- + Rs.50,000/- + Rs.80,000/-).

9. In the result, the Motor Accident Civil Miscellaneous Appeal is allowed enhancing the compensation amount awarded by the Tribunal from Rs.6,75,000/- to Rs.20,51,912/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of petition till realization. The appellants are directed to pay the deficit Court fee on over and above the amount claimed by them. Miscellaneous petitions pending, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 24.10.2019.
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