

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.2461 OF 2011

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Judgment and Decree dated 17.03.2010 passed in O.P.No.302 of 2009 by the Motor Accidents Claims Tribunal-cum-XXII Additional Chief Judge, City Criminal Court at Hyderabad (for short, the Tribunal).

2. The brief facts of the case are that appellant No.1 is the wife, appellant Nos.2 to 4 are the sons and appellant No.5 is the minor daughter and appellant No.6 is the mother of the deceased, Ch. Shivaiah. On 12-01-2009 at about 10.15 am., while the deceased was proceeding on his motor cycle along with his wife from Champapet to Thurka Yamjal, and when they reached B.N.Reddy Colony, an RTC bus bearing No.AP11Z 1701 came in a rash and negligent manner and dashed the motor cycle, as a result of which, the deceased fell down and died on the spot. The claimants filed aforesaid OP claiming compensation of Rs.8,00,000/- against the respondents-RTC., for the death of the deceased.

3. Respondent/RTC 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 of the driver of the RTC bus and awarded total compensation of Rs.3,23,000/- with

interest @ 7% per annum. Dissatisfied with the quantum of compensation, the appellants filed the present appeal, seeking enhancement of the same.

5. Sri B.Venkat Reddy, learned counsel for the appellants, submitted that the Tribunal has granted meager amount of Rs.3,23,000/- against the claim of Rs.8,00,000/- towards compensation, which needs to be enhanced. He further submitted that though the appellant produced the evidence to show that the deceased was earning Rs.9,000/- per month, the Tribunal wrongly taken the income of the deceased at Rs.4,000/- per month apart from adopting wrong multiplier of '9' instead of '11', as per the decision of the Hon'ble Supreme Court in **Smt. Sarla Varma Vs. Delhi Transport Corporation**¹. He further submitted that the appellants are also entitled to addition of 10% 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**². He further submitted that in view of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Co. Ltd. Vs. Nanu Ram Alias Chuhru Ram & Others**³, appellant No.5 is entitled to Rs.50,000/- under the head loss of love and affection.

6. Sri C.Sunil Kumar Reddy, learned standing counsel appearing for RTC, submitted that the Tribunal passed a well reasoned order and sought to dismiss the appeal.

¹ 2009 (6) SCC 1211

² 2017(6) ALD 170 (SC)

³ 2018 Law Suit (SC) 904

7. As the appellants could not produce evidence to show that the deceased was earning Rs.9,000/- per month, the Tribunal fixed the notional income of the deceased at Rs.4,000/- per month, which needs no interference. Since the deceased is a married person, and since there are 6 dependants, 1/4th of his income should be deducted towards personal expenditure as decided by the Apex Court in **Smt. Sarla Varma** (Supra). The Tribunal has wrongly adopted the multiplier of '9' instead of '11' as the deceased was aged about 54 years at the time of accident. Apart from the same, the appellants are entitled to addition of 10% towards future prospects, as per the decision of the Hon'ble Supreme Court in **Pranay Sethi** (supra). Therefore, annual income of the deceased comes to Rs.52,800/- (Rs.48,000/- + 10% future prospects). After deducting 1/4th towards personal expenses, the income of the deceased comes to Rs.39,600/- per annum. The multiplier for the age of the deceased is '11'. Hence, the compensation under the head 'loss of dependency' comes to Rs.4,35,600/- (Rs.39,600/- X 11). 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 (supra), a sum of Rs.50,000/- is granted to appellant No.5, who is the minor daughter of the deceased, towards loss of filial. Though appellant No.6, being the mother of the deceased, is eligible for loss of filial, her age is shown as 55 years on the date of filing the claim petition and the age of the deceased is shown as 54 years and therefore, the age of appellant No.6 does not match with the age of the deceased. Therefore, I am not inclined to grant compensation to appellant No.6 under the

head 'loss of filial'. Therefore, the total compensation comes to Rs.5,55,600/- (Rs.4,35,600/- + Rs.70,000/- + Rs.50,000/-).

12. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed enhancing the compensation amount awarded by the Tribunal from Rs.3,23,000/- to Rs.5,55,600/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of petition till realization. Miscellaneous petitions pending, if any, shall stand closed. No costs.

Date: 18.07.2019

Shr

T.AMARNATH GOUD, J

