

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1972 OF 2011

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 05.03.2007 passed in M.V.O.P.No.408 of 2005 by the Motor Accidents Claims Tribunal-cum-I Additional Chief Judge, City Civil Court at Secunderabad (for short, the Tribunal).

2. The brief facts of the case are that appellant No.1 is the wife and appellant No.2 is the daughter of the deceased, D.Venkata Swamy. On 12.11.2015 at about 6.15 pm., while the deceased was proceeding on his bicycle from Hasmathpet towards Bapuji Nagar on the extreme left side of the road, and when he reached main road near Royal Sea Hotel, Hasmathpet, the driver of RTC bus bearing No.AP9Z 7796, drove the bus in a rash and negligent manner with high speed, and dashed the deceased from the opposite direction. In the said accident, the deceased sustained multiple grievous injuries and died on the spot. The claimants filed aforesaid MVOP claiming compensation of Rs.5,00,000/- against the RTC for the death of the deceased.

3. Before the Tribunal, the 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 evidence produced by the parties, the Tribunal granted total compensation of Rs.2,20,000/-, with interest @ 7.5% per annum, i.e., Rs.1,95,000/- towards loss of life and loss of future earnings, Rs.10,000/- towards funeral expenses and Rs.15,000/- towards loss of consortium. Dissatisfied with the quantum of compensation, the appellants filed the present appeal, seeking enhancement of the same.

5. Heard.

6. Before the Tribunal, the appellants filed Ex.A.7 salary certificate to show that the deceased was working as security guard and was getting salary of Rs.3,500/- per month. But, the Tribunal did not take it into consideration and took the notional income of the deceased at Rs.15,000/- without any basis and granted the compensation. The Tribunal also did not grant any amount towards future prospects. In the circumstances, this Court is inclined to take the income of the deceased at Rs.3,500/- per month. Apart from the same, the appellants are entitled to addition of 25% towards future prospects, as per the decision of the Hon'ble Supreme Court in **National Insurance Co. Ltd. Vs. Pranay Sethi**¹. Therefore, monthly income of the deceased comes to Rs.4,375/-, and after deduction of 1/3rd, the annual income comes to Rs.35,004/- (Rs.2,917/- X 12 months). The multiplier for the age of the deceased is '13'. Hence, the compensation under the

¹ 2017(6) ALD 170 (SC)

head 'loss of income' comes to Rs.4,55,052/- (Rs.35,004/- X 13). The other amounts of Rs.25,000/- granted by the Tribunal are confirmed. Therefore, the total compensation comes to Rs.4,80,052/- (Rs.4,55,052/- + Rs.25,000/-).

7. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed by enhancing the compensation amount awarded by the Tribunal from Rs.2,20,000/- to Rs.4,80,052/-. The enhanced amount shall carry interest @ 7.5% per annum. Miscellaneous petitions pending, if any, shall stand closed. No costs.

Date: 13.06.2019
TJMR

T.AMARNATH GOUD, J

