

HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.2058 of 2015

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 17-01-2015 passed in O.P.No.2765 of 2013 by the Motor Vehicle Accidents Claims Tribunal-cum-II Additional Chief Judge, City Civil Court, Hyderabad (for short, the Tribunal).

2. Brief facts of the case are that on 20-08-2013 at about 9.30 pm, when the deceased-M.Satyanarayana was proceeding on his motorcycle bearing No.AP 23 P 5391 from Haridaspur to Malkapur Chourasta and on reaching Malkapur Chourasta, one lorry bearing No.AP 16V 1186 came behind him at a high speed in a rash and negligent manner and dashed his motorcycle and caused to his death. Hence, the claimant Nos.1 to 5, who are wife, children and parents of the deceased, filed the claim petition against the respondent Nos.1 and 2, who are the owner and insurer of the crime vehicle, claiming compensation of Rs.35.00 lakhs on the ground that all they are dependents of the deceased who is working in M/s.Pepsi Company Limited and earning Rs.14,873/- per month.

3. In the claim petition, the 2nd respondent-insurer filed 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 on the part of the driver of the crime vehicle only. So far as granting of compensation is concerned, the Tribunal granted an amount of Rs.17,98,960/- i.e. Rs.17,73,960/- towards loss of income; Rs.10,000/- towards funeral, Rs.10,000/- towards loss of estate and Rs.5000/- towards loss of consortium. Accordingly, it partly allowed the claim petition with interest at 7.5% 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 2nd 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 38 years and earning Rs.14,873/- per month by working in a private organization. He further contends that the Tribunal erred in awarding compensation of Rs.17,73,960/- by taking monthly income at Rs.14,783/- per month instead of Rs.14,873/- as per his pay slip; that Tribunal also erred in deducting 1/3rd personal expenses instead of 1/4th as there are five number of dependents; that the Tribunal ignored in awarding future prospects; that the Tribunal also ignored in awarding compensation under the heads of conventional and filial as per the decision of the Supreme Court in **National**

Insurance Company Limited Vs. Pranay Sethi¹ and Magma General Insurance Company Limited v. Nanu Ram @ Chuhru Ram². Therefore, the claimant is entitled for fair compensation.

8. Sri P.Phalguna Rao, learned Standing Counsel for the 2nd respondent-insurer, contends that the Tribunal awarded compensation in a just and proper manner and he supported the order passed by the Tribunal and prayed to dismiss the appeal.

9. As seen from the order of the Tribunal, the Tribunal has taken monthly income of the claimant at Rs.14,783/- per month. Admittedly, there is no dispute with regard to the deceased was working in a private organization and earning Rs.14,873/- as per Ex.A-10, pay slip, so the said income may be taken into consideration.

10. In spite of that, as per the decision of the Supreme Court in **Pranay Sethi** (1 supra), the deceased is entitled to be granted future prospects at 50% as he was aged about 38 years at the time of death and he got permanent job. Then his monthly income comes to Rs.22,310/- (14873 + 7437) per month. Considering the number of dependents of the deceased, 1/4th of the said amount towards personal expenditure can be deducted, then it comes to Rs.16,733/- (Rs.22,310 (-) Rs.5577/-) i.e. Rs.2,00,796/- per annum; Further, since at the time of accident, the deceased was aged about 38 years, the Tribunal has rightly taken multiplier '15'. Hence, the total

¹ 2017 (6) 170 (SC)

² 2018 Law Suit (SC) 904

loss of income in respect of the contribution towards his family members comes to Rs.30,11,940/- (2,00,796 x 15).

11. Further, The Tribunal granted Rs.10,000/- towards funeral, Rs.10,000/- towards loss of estate and Rs.5000/- towards loss of consortium, totaling Rs.25,000/-. However, compensation granted under all these heads is to be re-determined since the deceased was a married person, the claimants are entitled to be granted compensation of Rs.70,000/- towards conventional head, which is covered all these heads, as per the decision of the Supreme Court in **Pranay Sethi** (1 supra). Hence, instead of granting Rs.25,000/- under all these heads, an amount of Rs.70,000/- is granted to the claimants.

12. Further, being parents of the deceased, the parents of the deceased are entitled to be granted compensation of Rs.80,000/- (Rs.40,000/- each) and the minor children of the deceased are also entitled to be granted Rs.1,00,000/- (Rs.50,000/- each) towards loss of filial charges as per the decision of the Supreme Court in **Magma** (2 supra).

13. Except the above modification, the compensation awarded by the Tribunal under other heads shall remain unchanged. Therefore, the claimants are granted total compensation of Rs.32,61,940/- (rounded off to Rs.32,62,000/-) under various heads as follows:

Sl.No.	Name of Head	Awarded by Tribunal	Awarded by this Court
01.	Loss of income	Rs.17,73,960/-	Rs.30,11,940/-
02.	Funeral expenses	Rs. 10,000/-	Nil
03.	Loss of estate	Rs. 10,000/-	Nil
04.	Loss of consortium	Rs. 5,000/-	Nil
05.	Conventional Head	Nil	Rs. 70,000/-

06.	Filial charges	Nil	Rs. 1,80,000/-
	Total	Rs.17,98,960/-	Rs.32,61,940/- (Rs.32,62,000/-)

14. In the result, the appeal is allowed by enhancing the compensation awarded by the Tribunal from Rs.17,98,960/- to Rs.32,62,000/- (Rupees Thirty Two Lakhs and Sixty Two Thousand only). The enhanced amount of compensation shall carry interest at 7.5% per annum. 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.

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

JUSTICE T.AMARNATH GOUD

Date: 16.09.2019
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