

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

C.M.A. No.652 OF 2002

JUDGMENT:

This appeal is filed by the appellants-claimants 1 and 2 aggrieved by the Order and Decree dated 16.03.2001 passed in O.P.No.201 of 1999 by the Motor Vehicle Accidents Claims Tribunal-cum-V Additional District Judge at Ranga Reddy District (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 K. Krishnama Chary. On 11.01.1999 while the deceased was going to his office on Hero Honda Motor Cycle from Devaryamjal, he stationed his motor cycle near Pothayapalli road to pass urine, then lorry bearing No.ADJ 3296 came in a rash and negligent manner and dashed against the deceased. As a result of which, the deceased died. The deceased was working as an Office Assistant in Semi Conductors Complex Ltd., a Government of India undertaking, and drawing a salary of Rs.5,000/- per month and was aged 30 years. The claimants filed the aforesaid OP claiming compensation of Rs.10,00,000/- against respondent Nos.1 and 2, the owner and the insurer of the aforesaid lorry, for the death of the deceased.

3. Before the Tribunal, respondent No.1 remained *ex parte*. Respondent No.2 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.

5. 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 total compensation of Rs.3,56,000/-, with interest @ 12% per annum. Dissatisfied with the quantum of compensation, the claimants 1 and 2/ appellants 1 and 2 filed the present appeal, seeking enhancement of the same.

6. Heard Mr. N. Kiran, learned counsel representing Mr. T.P. Acharya, learned counsel appearing for the appellants and Mr. T. Ramulu, learned counsel appearing for respondent No.2.

7. Admittedly, the occurrence of accident is not disputed. With regard to quantum of income of the deceased, the Tribunal erred in taking into consideration his monthly income. At the time of accident, the deceased was working as an Office Assistant in a Government of India undertaking and was getting salary of Rs.5,000/- per month. Ex.A-7 is the salary certificate of the deceased. As there were deductions of Rs.1,000/-, the net salary of the deceased was Rs.4,000/- per month. Therefore, this Court is inclined to take the monthly salary of the deceased @ Rs.4,000/- per month. 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 **National Insurance Co. Ltd. Vs. Pranay Sethi**¹. Therefore, monthly income of the deceased comes to Rs.5,600/- per month (Rs.4,000/- +

¹ 2017(6) ALD 170 (SC)

Rs.1,600/- (40%)). Since there are four claimants, 1/4th of the income was deducted towards personal expenses of the deceased. After deducting 1/4th of the income, the monthly income comes to Rs.4,200/- (Rs.5,600/- minus Rs.1,400/-). Thus, the annual income of the deceased comes to Rs.50,400/- (Rs.4,200 X 12 months). According to Ex.A-4, post mortem report, the deceased was aged about 35 years and the multiplier for the age of the deceased is '16' as per the decision reported in **Sarala Verma and others v. Delhi Transport Corporation and another**². Hence, the compensation under the head 'loss of income' comes to Rs.8,06,400/- (Rs.50,400/- X 16). The appellants are also entitled to Rs.70,000/- towards conventional charges, as per **Pranay Sethi's** case (supra). In the light of **Magma General Insurance Co. Ltd. Vs. Nanu Ram Alias Chuhru Ram & Others**, a sum of Rs.50,000/- is granted to appellant No.2, who is the daughter of the deceased, the head of loss of filial consortium. The amount awarded by the Tribunal under the head of pecuniary damages @ Rs.15,000/- remains unchanged. Thus, the total compensation comes to Rs.9,41,000/- (Rs.8,06,400/- + Rs.70,000/- + Rs.50,000/-+Rs.15,000/-). Except the said modification, the rest of the impugned order remains unchanged.

8. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed enhancing the compensation amount awarded by the Tribunal from Rs.3,56,000 to Rs.9,41,000/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of petition till realization. The

² (2009) 6 SCC 121

respondents are directed to deposit the enhanced amount along with proportionate costs and interest within two (02) months from the date of receipt of a copy of this order. On such deposit, the appellants are permitted to withdraw their respective shares as awarded by the Tribunal. Miscellaneous petitions pending, if any, shall stand closed. No costs.

T. AMARNATH GOUD, J

August 27, 2019

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