

HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.647 of 2006

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 21-10-2005 passed in O.P.No.254 of 2002 by the Motor Vehicle Accidents Claims Tribunal-cum-District Judge, at Nizamabad (for short, the Tribunal).

2. Brief facts of the case are that on 25-09-2001 at about 7.00 pm, when the deceased-E. Baddi Ram was proceeding on his cycle and when he reached in front of police station Yedpally, Nizamabad District, one lorry bearing No.KL-8/N-4797, came at high speed in a rash and negligent manner and dashed against him, due to which, he sustained fatal injuries to his head and died on the spot. Hence, the claimant Nos.1 to 4, who are wife, children and mother 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.7.00 lakhs on the ground that all they are dependents of the deceased who is working as labourer and earning Rs.6,000/- per month and he was aged about 30 years at the time of accident.

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.4,76,500/- i.e. Rs.4,32,000/- towards loss of income; Rs.15,000/- towards loss of consortium, Rs.2,500/- towards funeral, and Rs.27,000/- towards medical expenses. Accordingly, it partly allowed the claim petition with interest at 9% 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 30 years and earning Rs.6,000/- per month by working as a labourer. He further contends that the Tribunal erred in awarding compensation of Rs.4,32,000/- by taking monthly income at Rs.3,000/- per month instead of Rs.6,000/-; that Tribunal also erred in deducting 1/3rd personal expenses instead of 1/4th as there are four

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 decisions of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi**¹ and **Magma General Insurance Company Limited v. Nanu Ram @ Chuhru Ram**². Therefore, the claimant is entitled for fair compensation.

8. Smt. V.Durga, learned Standing Counsel for the 2nd respondent-insurer, contends that the Tribunal awarded compensation in a just and proper manner and she 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.3000/- per month. Admittedly, there is no dispute with regard to the deceased was working as a labourer. According to the judgment of the Apex Court in **Ramachandrappa v. Royal Sundaram Alliance Insurance Com. Ltd.**,³ wherein, the Apex Court held that even for a 'coolie' the monthly income has to be taken at Rs.4,500/-. Hence, 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 40% as he was aged about 30 years at the time of death.

¹ 2017 (6) 170 (SC)

² 2018 Law Suit (SC) 904

³ (2011) 13 S.C.C. 236

Then his monthly income comes to Rs.6,300/- (4500 +1800) 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.4,725/- (Rs.6300/- (-) Rs.1575/-) i.e. Rs.56,700/- per annum. Further, since at the time of accident, the deceased was aged about 30 years, the correct multiplier to be applied is '17' but not '18' as applied by the Tribunal. Hence, the total loss of income in respect of the contribution towards his family members comes to Rs.9,63,900/- (56,700/- x 17).

11. Further, The Tribunal granted Rs.15,000/- towards loss of consortium and Rs.2,500/- towards funeral, totaling Rs.17,500/-. However, compensation granted under 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.17,500/- under these heads, fixed amount of Rs.70,000/- is granted to the claimants.

12. Further, 4th respondent being mother of the deceased is entitled to be granted compensation of Rs.40,000/- and the respondent Nos.2 and 3 being minor children of the deceased are also entitled to be granted Rs.1,00,000/- (Rs.50,000/- each), totaling Rs.1,40,000/- 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 i.e. Rs.27,000/- towards medical expenses shall remain unchanged. Therefore, the claimants are granted total compensation of Rs.12,00,900/-, which is rounded off to Rs.12,01,000/-, under various heads as follows:

Sl.No.	Name of Head	Awarded by Tribunal	Awarded by this Court
01.	Loss of income	Rs.4,32,000/-	Rs.9,63,900/-
02.	Loss of consortium	Rs. 15,000/-	Nil
03.	Funeral expenses	Rs. 2,500/-	Nil
04.	Medical expenses	Rs. 27,000/-	Rs. 27,000/-
05.	Conventional Head	Nil	Rs. 70,000/-
06.	Filial charges	Nil	Rs. 1,40,000/-
Total		Rs.4,76,500/-	Rs.12,00,900/- (Rs.12,01,000/-)

14. In the result, the appeal is allowed by enhancing the compensation awarded by the Tribunal from Rs.4,76,500/- to Rs.12,01,000/- (Rupees Twelve Lakhs and One Thousand only). The enhanced amount of compensation shall carry interest at 7.5% per annum. The appellants/claimants are directed to pay deficit Court Fee. The respondents are directed to deposit the enhanced amount jointly and severally 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: 17.09.2019
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