

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.334 OF 2010

JUDGMENT:

This appeal is filed by the appellants/claimants aggrieved by the Order and Decree dated 23.09.2009 passed in M.V.O.P.No.60 of 2007 by the Motor Accidents Claims Tribunal-cum-District Judge, Warangal (for short, Tribunal).

2. For the sake of convenience, the parties are hereinafter referred to as they were arrayed in the O.P. before the Tribunal.

3. The brief facts of the case are that the petitioners 1 and 2 are the parents, petitioners 3 and 4 are the unmarried sisters and the 5th petitioner is the brother of the deceased-Ladella Prakasham. On 04.10.2003, the deceased was traveling in an auto bearing No.AP 36U 7608 from Mogilicherla to Warangal at about 12.10 hours, when the auto reached Kotagandi Cross roads in the outskirts of Reddypalem Village, the auto dashed with the RTC Bus bearing No.AP 36U 6678, coming in opposite direction, as a result of which the deceased sustained head injury and died on the spot. Hence, the petitioners filed the present claim petition claiming a compensation of Rs.9,00,000/-. The first respondent is the owner of the offending auto bearing No.AP 36U 7608, the second respondent is the insurance company and the third respondent is the APSRTC.

4. Before the Tribunal, the respondents filed separate counters 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 evidence produced by the parties, the Tribunal granted total compensation of Rs.1,93,000/-, with interest @ 7.5% per annum from the date of petition till realization, i.e., Rs.1,80,000/- towards loss of income, Rs.10,000/- towards loss of estate, Rs.2,000/- towards funeral expenses and Rs.1,000/- towards transport charges, by directing the 2nd respondent to deposit the same in the first instance and recover the same from the 1st respondent as per the decision reported in **Tamilnadu State Road Transport Corporation v. S.Rajapriya**¹. The Tribunal made the 3rd respondent not liable to pay any compensation to the claimants since there is no rash and negligence on the part of the driver of the 3rd respondent. Dissatisfied with the quantum of compensation, the appellants filed the present appeal, seeking enhancement of the same.

6. Heard.

7. The Tribunal has awarded the amount of Rs.1,93,000/- against the claim of Rs.9,00,000/-. According to the claimants, the deceased was owning land and also worked as a seasonal employee and earning Rs.3,000/- per month and Ex.A-6-salary certificate issued by Keerthi Cotton Pressing Industry certifies that he worked as a seasonal employee and paid a salary of Rs.3,000/- per month, but the Tribunal held that the said

¹ 2005 (2) TAC 305

certificate does not disclose the fact that how many days the season will continue and how much salary was paid to him and therefore, fixed a notional income of the deceased @ Rs.10,000/- and applied '18' multiplier.

8. In the facts and circumstances of the case, Since the deceased was owning land and also worked as a seasonal employee and earning Rs.3,000/- per month and the same is evident from Ex.A-6-salary certificate issued by Keerthi Cotton Pressing Industry, this Court feels that it would be just and reasonable to fix a notional income of Rs.3,000/- per month and after deduction of 50% towards personal expenses of the deceased since the deceased is an unmarried person, the income of the deceased comes to Rs.1,500/- (Rs.3,000/- x 50%) per month. Hence, the annual income comes to Rs.18,000/- (Rs.1,500/- x 12 months). As the age of the deceased is 28 years at the time of the accident, the multiplier for the age of the deceased is '17' as per the decision reported in **Sarla Verma and others v. Delhi Transport Corporation and Another**². Hence, the compensation under the head 'loss of income' comes to Rs.3,06,000/- (Rs.18,000/- x 17). Apart from the same, the appellants are entitled to Rs.30,000/- towards conventional heads, as per the decision of the Hon'ble Supreme Court in **National Insurance Co. Ltd. Vs. Pranay Sethi**³. The amount of Rs.1,000/- awarded by the Tribunal under the head of transport charges remains the same. Therefore, the total compensation

² (2009) 6 SCC 121

³ 2017(6) ALD 170 (SC)

comes to Rs.3,37,000/- (Rs.3,06,000/- + Rs.30,000/- + Rs.1,000/-).

9. In a decision reported in **Shivaraj Vs. Rajendra**⁴, the Hon'ble Supreme Court directed the insurance company to pay the compensation amount at the first instance and recover the same from the owner of the crime vehicle. In view of the same, respondent No.2 is directed to pay the compensation amount at the first instance and recover the same from respondent No.1.

10. In the result, the Motor Accident Civil Miscellaneous Appeal is allowed by enhancing the compensation amount awarded by the Tribunal from Rs.1,93,000/- to Rs.3,37,000/-. Respondent No.2-insurance company is directed to pay the compensation amount at the first instance and recover the same from respondent No.1-owner of the auto bearing No.AP 36U 7608. The enhanced amount shall carry interest @ 7.5% per annum. Miscellaneous petitions pending, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 24th July, 2019

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⁴ 2018 AIR (SC) 4252