

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.2302 OF 2006

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Award and Decree dated 19.04.2006 passed in O.P.No.328 of 2003 by the Additional Metropolitan Sessions Judge for the Trial of Jubilee Hills Car Bomb Blast Case-cum-Additional Family Court-cum-XXIII Additional Chief Judge, Red Hills, Nampally at Hyderabad (for short, the Tribunal).

2. The brief facts of the case are that appellant No.1 is the father, appellant No.2 is the mother and appellant Nos.3 and 4 are the sister and brother of the deceased, T.Yadagiri. On 25.07.2002 at about 1.30 pm., while the deceased was driving lorry bearing No.AHT 7643 from Ibrahimpatnam to Hyderabad, and when the lorry reached at Injapur Forest Area on Nagarjuna Sagar Road, a lorry bearing No.AP9W 9971 came in a rash and negligent manner with high speed and dashed the lorry of the deceased, due to which, the appellant died on the spot. The claimants filed aforesaid OP claiming compensation of Rs.3,00,000/- against respondent Nos.1 and 2, driver and owner of the lorry, for the death of the deceased.

3. Before the Tribunal, respondent No.1 remained *ex parte*. Respondent No.2 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 of the driver of the lorry and awarded compensation of Rs.2,54,112/- with interest 6% per annum. Dissatisfied with the quantum of compensation, the appellants filed the present appeal, seeking enhancement of the same.

5. Sri C.Vikram Chandra, learned counsel for the appellants, submitted that though the appellants produced the evidence to show that the deceased was earning Rs.4,000/- per month as a driver, the Tribunal erroneously fixed the income of the deceased at Rs.2,000/- per month and the same is very low. He further submitted that the appellants are also entitled to addition of 40% on the income of the deceased towards future prospects and also Rs.30,000/- towards conventional charges, as per the ratio laid down by the Hon'ble Supreme Court in **National Insurance Co. Ltd. Vs. Pranay Sethi**¹. He further submitted that appellant Nos.1 and 2, being the parents of the deceased, are entitled to Rs.40,000/- each towards loss of filial consortium, as per the decision of the Hon'ble Supreme Court in **Magma General Insurance Co.Ltd. Vs.Nanu Ram Alias Chuhru Ram**².

6. Sri B.Narayana Reddy, learned counsel for respondent No.2, submitted that the Tribunal ought to have deducted 50% from the

¹ 2017(6) ALD 170 (SC)

² 2018 Law Suit (SC) 904

income of the deceased towards personal expenses instead of 1/3rd, as per the judgment of the Hon'ble Supreme Court in **Smt.Sarla Varma Vs. Delhi Transport Corporation**³. He further submitted that except the same, the Tribunal passed a well reasoned order and sought to dismiss the appeal.

7. Admittedly, the deceased was working as driver at the time of accident and hence, this Court is inclined to fix his notional income at Rs.3,000/- per month. Apart from the same, the appellants are entitled to addition of 40% towards future prospects, as per **Pranay Sethi's** case (supra). Therefore, monthly income of the deceased comes to Rs.4,200/- (Rs.3,000/- + Rs.1,200/-), and after deduction of 50%, as the deceased was a bachelor, the annual income comes to Rs.25,200/- (Rs.2,100/- X 12). As the deceased was aged about 24 years at the time of accident, as per Ex.A.2, inquest report, the appropriate multiplier is '18'. Hence, the compensation under the head 'loss of dependency' comes to Rs.4,53,600/- (Rs.25,200/- X 18). Apart from the same, the appellants are entitled to Rs.30,000/- towards conventional heads, as per **Pranay Sethi's** case (supra). Appellants Nos.1 and 2, being the father and mother of the deceased, are entitled to Rs.80,000/- (Rs.40,000/- each) towards filial consortium, as per **Nanu Ram Alias Chuhru Ram's** case (supra). Therefore, the total compensation comes to Rs.5,63,600/- (Rs.4,53,600/- + Rs.30,000/- + Rs.80,000/-).

³ 2009(6) SCC 121

8. In the result, the Motor Accident Civil Miscellaneous Appeal is allowed, enhancing the compensation amount awarded by the Tribunal from Rs.2,54,112/- to Rs.5,63,600/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of claim petition till realization. As the claimants claimed only Rs.3,00,000/-, they are directed to deposit deficit Court fee before the Tribunal. Miscellaneous petitions pending, if any, shall stand closed. No costs.

Date: 18.10.2019
TJMR

T.AMARNATH GOUD, J

