

**THE HON'BLE SRI JUSTICE T.AMARNATH GOUD**

**M.A.C.M.A. No.119 OF 2014**

**JUDGMENT:**

This appeal is filed by the appellants-claimants aggrieved by the judgment and decree dated 22-12-2009 passed in O.P.No.789 of 2008 by the Chairman, Motor Vehicles Accidents Claims Tribunal-cum-VII Additional Metropolitan Sessions Judge-cum-XXI Additional Chief Judge, Hyderabad (for short, the Tribunal).

2. The brief facts of the case are that on 26-3-2008 at about 6.00 PM., when the deceased Ramulu was coming to Yacharam on a motor cycle, the vehicle bearing No.AP29T 6711, driven by its driver in a rash and negligent manner, dashed the deceased and that the deceased fell down and sustained grievous injuries and died on the spot. The claimants filed the above O.P., claiming compensation of Rs.5,00,000/- for the death of the deceased.

3. The respondents 1 and 2 remained ex parte and respondent No.3 filed his counter denying the allegations made in the claim petition *inter alia* contending that the amount of compensation claimed by the claimants is excessive, exorbitant, imaginary and out of proportion and sought to dismiss the petition.

4. During the course of trial, the claimants examined P.Ws.1 and 2 and got marked Exs.A1 to A8. On behalf of the

respondents, no oral evidence was adduced, but Ex.B1 insurance policy was marked.

5. After considering the material on record and the evidence adduced by the claimants, the Tribunal allowed the O.P. in part and awarded an amount of Rs.2,00,000/- in favour of the first petitioner with interest at 7.5% p.a. from the date of petition till the date of realization payable by the respondents 2 and 3 jointly and severally. Being aggrieved by the quantum of compensation awarded by the Tribunal, the claimants preferred the present appeal.

6. Heard.

7. It is not in dispute that the deceased was a labour and in pursuance of the death of the deceased, the first petitioner/claimant who is the mother and the second petitioner/claimant who is the brother of the deceased made a claim for Rs.5,00,000/-, but the Tribunal has dismissed the claim of the second petitioner, holding that the brother is not a dependant. This Court finds no infirmity insofar as the finding recorded by the Tribunal and the claim made by the second appellant is dismissed.

8. The first petitioner/claimant has not filed any proof in respect of the income of the deceased. In the light of the judgment of the Apex Court in **New India Assurance Company**

**Limited V. Kalpana (Smt)**<sup>1</sup>, fixing the income of the deceased at Rs.3,000/- per month in the absence of any proof of evidence towards the income, the same principle is applied in this case also. Accordingly, the income of the deceased is fixed at Rs.36,000/- per annum. Since the deceased died unmarried, 50% of his income should be deducted towards personal expenses and the annual income would come to Rs.18,000/- per annum and the appropriate multiplier is 18 since the deceased died at the age of 19 years. Hence, the compensation under the head loss of income comes to Rs.3,24,000/- (Rs.18,000/- x 18), instead of Rs.2,00,000/- granted by the Tribunal under the above head. In the light of the judgment of the Apex Court in **National Insurance Co. Ltd. Vs. Pranay Sethi**<sup>2</sup>, the first appellant is entitled to Rs.30,000/- under other conventional heads, since the deceased died unmarried. Except the above modification, the award passed by the Tribunal remains unchanged.

9. Accordingly the appeal is partly allowed to the extent indicated above. Miscellaneous petitions pending if any shall stand closed. No order as to costs.

**T.AMARNATH GOUD, J**

Date: 21-01-2019.  
Shr

---

<sup>1</sup> (2007) 3 SCC 538.

<sup>2</sup> 2017(6) ALD 170 (SC)