THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1858 OF 2010

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 15.07.2010 passed in O.P.No.96 of 2009 by the Motor Accident Claims Tribunal-cum-IX Additional District & Sessions Judge at Kamareddy (for short, the Tribunal).

2. The brief facts of the case are that appellant No.1 is the husband, appellant Nos.2 and 3 are the daughters of the deceased, Uggera Sayavva. On 24.12.2003, while the deceased was traveling in an auto bearing No.AP25T 9094 from Dharmaraopet to Sadashivnagar, and when the auto reached one kilometer from Sadashivanagar Police Station, a lorry bearing No.RJ01G 4779 came in high speed in a rash and negligent manner and dashed against the auto. In the said accident, the deceased sustained grievous injuries and died on the spot. The claimants filed aforesaid OP claiming compensation of Rs.6,00,000/- against respondent Nos.1 and 2, owner and insurer of the lorry, for the death of the deceased.

3. 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.

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 total compensation of Rs.3,28,000/- with interest @ 7.5% per annum i.e., Rs.3,26,000/- towards loss of life, love and affection and Rs.2,000/- towards funeral expenses. Dissatisfied with the quantum of compensation, the appellants filed the present appeal, seeking enhancement of the same.

5. Sri Lakkadi Dayakar Reddy, learned counsel for the appellants, submitted that though the appellants produced the evidence to show that the deceased was earning Rs.10,000/- to Rs.15,000/- per month by selling milk and vegetables and attending agriculture works, the Tribunal erroneously fixed the income of the deceased at Rs.2,400/- 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.70,000/- 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 No3, being the minor daughter of the deceased, is entitled to Rs.50,000/- each towards loss of parental consortium, as per the decision of the Hon'ble Supreme Court in **Magma General Insurance Co.Ltd. Vs.Nanu Ram Alias Chuhru Ram[2]**.

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[1] 2017(6) ALD 170 (SC)
[2] 2018 Law Suit (SC) 904

6. Sri K.Rajendra Prasad, learned counsel appearing on behalf of Smt.A.Jayanthi, learned Standing Counsel for respondent No.2, submitted that as per Ex.A.3, post-mortem report, the age of the deceased is 35 and the appropriate multiplier for calculation of compensation is '16' as per **Smt.Sarla Varma Vs. Delhi Transport Corporation**[3]**,** but the Tribunal wrongly adopted the multiplier '17'. He further submitted that except the same, the Tribunal passed a well reasoned order and sought to dismiss the appeal.

7. Though no proof of income of the deceased was filed, as the deceased is stated to be selling milk and vegetables and attending agriculture works, I am inclined to fix the income of the deceased at Rs.3,000/- per month notionally. 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 1/3rd as the dependants are three in number, the annual income comes to Rs.33,600/- (Rs.2,800/- X 12). As the deceased was aged 35 years as per Ex.A.3, the appropriate multiplier is '16'. Hence, the compensation under the head 'loss of dependency' comes to Rs.5,37,600/- (Rs.33,600/- X 16). Apart from the same, the appellants are entitled to Rs.70,000/- towards conventional heads, as per **Pranay Sethi**'s case (supra). As appellant No.3 is minor daughter, she is entitled to Rs.50,000/- towards parental consortium, as per **Nanu Ram Alias Chuhru**

[3] 2009(6) SCC 121

Ram's case (supra). Therefore, the total compensation comes to Rs.6,57,600/- (Rs.5,37,600/- + Rs.70,000/- + Rs.50,000/-).

8. In the result, the Motor Accident Civil Miscellaneous Appeal is allowed, enhancing the compensation amount awarded by the Tribunal from Rs.3,28,000/- to Rs.6,57,600/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of claim petition till realization. As the claimants claimed only Rs.6,00,000/-, they are directed to deposit deficit Court fee before the Tribunal. Miscellaneous petitions pending, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 31.07.2019
TJMR