THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.692 OF 2010

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 26.04.2008 passed in O.P.No.116 of 2005 by the Motor Accidents Claims Tribunal-cum-VI Additional District and Sessions Judge, Mahabubnagar (for short, the Tribunal).

2. The brief facts of the case are that appellant No.1 is the wife, appellant Nos.2 and 3 are the children and appellant Nos.4 and 5 are the parents of the deceased, Meriga Sreenaiah. On 06.03.2004 at about 9.30 am., while the deceased and his friends were celebrating holi festival at Rampur bus stage, and when the deceased crossed the road and while passing urine by sitting by the side of Jangonpally road, all of a sudden, a jeep bearing No.AP22U 3478, came from Telkapally, driven by the driver in a rash and negligent manner, and dashed against the deceased. In the said accident, the deceased sustained bleeding injuries and died. The claimants filed aforesaid OP claiming compensation of Rs.3,50,000/- against respondent Nos.1 and 2, the owner and insurer of the aforesaid jeep, for the death of the deceased.

3. Before the Tribunal, respondent No.1 remained ex-parte. The second respondent filed its 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 jeep and awarded total compensation of Rs.2,35,000/-, with interest @ 7.5% per annum. Dissatisfied with the quantum of compensation, the appellants filed the present appeal, seeking enhancement of the same.

5. Heard.

6. Ms.K.Rajitha, learned counsel for the appellants, submitted that though the appellants produced the evidence to show that the deceased was earning more than Rs.3,000/- per month by working as agriculture labour, the Tribunal erroneously fixed the income of the deceased at Rs.18,000/- per annum. She further submitted that the age of the deceased was 24 years and the appropriate multiplier as per the decision of the Hon'ble Supreme Court in **Smt.Sarla Varma Vs. Delhi Transport Corporation**[1] is '18', but the Tribunal wrongly took the multiplier '17'. She further submitted that as per the said judgment, 1/5th has to be deducted from the income of the deceased, as he is having 5 dependants, but the Tribunal wrongly deducted 1/3rd. She further submitted that the appellants are also entitled to addition of 40% on the income of the deceased towards future prospects as per the ratio laid down by

[1] 2009 (6) SCC 121

the Hon'ble Supreme Court in **National Insurance Co. Ltd. Vs. Pranay Sethi**[2]**.**

7. Sri V.Venkata Mayur, learned counsel appearing for the respondents submitted that the Tribunal passed a well reasoned order and sought to dismiss the appeal.

8. The evidence adduced on behalf of the appellants discloses that the deceased was aged 24 years on the date of accident and he was earning Rs.3,000/- per month by doing agriculture work. Therefore, this Court is inclined to take the income of the deceased at Rs.3,000/- per month. As rightly urged by the learned counsel for the appellants, as per **Sarla Varma**'s case (supra), the appropriate multiplier for the age group of the deceased is '18' and the deduction to be taken is $1/5^{th}$. Apart from the same, the appellants are entitled to addition of 40% towards future prospects, as per the decision of the Hon'ble Supreme Court in **Pranay Sethi** (supra). Therefore, monthly income of the deceased comes to Rs.4,200/- (Rs.3,000/- + Rs.1,200/-), and after deduction of $1/5^{th}$, the annual income comes to Rs.40,320/- (Rs.3,360/- X 12 months). Hence, the compensation under the head 'loss of income' comes to Rs.7,25,760/- (Rs.40,320/- X 18). Apart from the same, the appellants are entitled to Rs.70,000/- towards conventional heads, as per **Pranay Sethi**'s case (supra). Therefore, the total compensation comes to Rs.7,95,760/- (Rs.7,25,760 + Rs.70,000/-).

[2] 2017(6) ALD 170 (SC)

9. In the result, the Motor Accident Civil Miscellaneous Appeal is allowed by enhancing the compensation amount awarded by the Tribunal from Rs.2,35,500/- to Rs.7,95,760/-. The enhanced amount shall carry interest @ 7.5% per annum. As the claimants claimed only Rs.3,50,000/-, they are directed to deposit deficit Court fee, while withdrawing the amount. Miscellaneous petitions pending, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 19.06.2019
TJMR