

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.288 OF 2017

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 17.11.2016 passed in M.V.O.P.No.568 of 2014 by the Motor Accidents Claims Tribunal (Principal District Judge) at Nizamabad (for short, the Tribunal).

2. The brief facts of the case are that appellant No.1 is the mother and appellant No.2 is the father of the deceased, Mohd. Sameer. On 17.05.2014, while the deceased and appellant No.1 were travelling in auto bearing No.AP15TC 3594 from Ramojipet Village towards Korutla, and when the auto reached Kasthuriba School after passing Kallur Village, one motorcycle bearing No.AP28BM 5738 came in opposite direction in a rash and negligent manner and dashed the auto. In the said accident, the deceased fell down from the auto and sustained grievous injuries. He was shifted to Government Hospital, Korutla, and from there, to Government Hospital, Jagtial, where he was died while undergoing treatment. The appellants filed aforesaid OP claiming compensation of Rs.8,00,000/- against respondent Nos.1 and 2, owner and insurer of the auto, 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 as the claim petition was filed under Section 163-A of the Motor Vehicles Act, 1988, there is no need to prove the negligence on the part of the driver of the vehicle and awarded total compensation of Rs.2,44,500/- with interest @ 7.5% per annum i.e., Rs.2,40,000/- towards loss of dependancy, Rs.2,000/- towards funeral expenses and Rs.2,500/- towards loss of estate. Dissatisfied with the quantum of compensation, the appellants filed the present appeal, seeking enhancement of the same.

5. Learned counsel for the appellants submitted that the appellants 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**¹ and seeks to enhance the compensation.

6. Learned Standing Counsel for respondent No.2 submitted that the age of the deceased was 12 years at the time of accident and the appropriate multiplier for calculation of compensation is '15' as per **Smt.Sarla Varma Vs. Delhi Transport Corporation**², but the Tribunal wrongly adopted the multiplier '16'. He further submitted that except the same, the Tribunal passed a well reasoned order and sought to dismiss the appeal.

¹ 2018 Law Suit (SC) 904

² 2009(6) SCC 121

7. As the claim petition was filed under Section 163-A of the said Act, taking the notional income of the deceased at Rs.15,000/- is just and reasonable. As the deceased was aged 12 years, the appropriate multiplier is '15'. Hence, the compensation under the head 'loss of dependency' comes to Rs.2,25,000/- (Rs.15,000/- X 15). Apart from the same, the appellants are entitled to Rs.15,000/- towards funeral expenses, as per the judgment of the Apex Court in **National Insurance Co. Ltd. Vs. Pranay Sethi**³. As the appellants are parents of the deceased, they are entitled to Rs.40,000/- each towards filial consortium, as per **Nanu Ram Alias Chuhru Ram's** case (supra). Therefore, the total compensation comes to Rs.3,20,000/- (Rs.2,25,000/- + Rs.15,000/- + Rs.80,000/-).

8. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed, enhancing the compensation amount awarded by the Tribunal from Rs.2,44,500/- to Rs.3,20,000/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of claim petition till realization. Miscellaneous petitions pending, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 27.12.2019
TJMR

³ 2017(6) ALD 170 (SC)