

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.1111 OF 2015

AND

M.A.C.M.A.No.1369 OF 2015

COMMON JUDGMENT:

MACMA No.1111 of 2015 is filed by the Insurance company and MACMA No.1369 of 2015 is filed by the claimant against the order, dated 08.01.2015 passed in O.P.No.1154 of 2013 by the Motor Accidents Claims Tribunal-cum-II-Additional Chief Judge, City Civil Court, Hyderabad (for short 'the Tribunal) granting compensation of Rs. 4,98,150/- against the claim of Rs.17,00,000/-.

2. For the sake of convenience, the parties herein after will be referred to as they were arrayed before the Tribunal.

3. Since both the appeals arise out of the same O.P, the same are heard and disposed of by way of this common judgment.

4. Learned counsel for the insurance company contended that the driver of the vehicle is not having effective driving license and that the tribunal erred in taking the age of the deceased instead of taking age of the mother of the deceased and that the income taken by the tribunal is high as the deceased is working in fruit juice shop and that the tribunal erred in considering the insurance company liable to pay the compensation even though the deceased was crossing the road where there were no zebra lines and without seeing on either side of the road and has contributory negligence for causing the accident and that the compensation and interest granted by the tribunal is on higher side and therefore, prayed to

allow the appeal filed by the insurance company by setting aside the order of the tribunal.

5. Learned counsel for the claimant contended that the compensation granted by the tribunal is very less and that the tribunal erred in taking the income of the deceased at Rs.10,500/- per month as the deceased was working in A-1 Juice Centre at Mind Space IT Part, Madhapur and also proved employment by examining PW.4-employer, who issued Ex.A.6-salary certificate and that the tribunal erroneously deducted 50% of the income towards personal expenses instead of 1/3rd and that the tribunal erred in granting future prospects as per **Rajesh and others v Rajbeer Singh and others**¹ and that the tribunal failed to award Rs.1,00,000/- towards loss of love and affection and that the other heads granted by the tribunal are very low and prayed for enhancement of compensation.

6. The Motor Vehicle Act is a beneficial legislation as held by the Apex Court in several judgments. As per evidence of PWs.2 and 4 and Ex.P.4 – post-mortem report and Ex.A.6-salary certificate, the deceased is working in A.1 Juice Centre at Mind Space IT Part, Madhapur and getting Rs.10.500/- per month as salary. The age of the deceased by the time of accident is 50 years. As per decision of the Apex Court in **SARALA VERMA AND OTHERS v DELHI TRANSPORT CORPORATION AND ANOTHER**², the relevant multiplier for the age group of 50 years is '13'. As rightly

¹ 2013 ACJ 1403

² 2009 ACJ 1298

considered by the tribunal that since during pendency of the claim petition, petitioner No.2 died and the 1st petitioner is only the dependant, 50% has to be deducted towards personal expenses of the deceased. Apart from the same, the appellant is entitled for 25% towards future prospects as the age of the deceased is 50 years and also Rs.30,000/- towards conventional heads as per the decision of **National Insurance Company Ltd v Pranay Sethi**³. Rs.16,150/- granted towards treatment by the tribunal unaltered. After adding 25% of the future prospects to the monthly income comes to Rs.13,125/-, and deducting 50% towards personal expenses, comes to Rs.6,562/-. The loss of dependency comes to Rs. 10,23,672/- (Rs.6,562- x 12 x 13). Thus, the claimant is entitled for the following compensation:

1. Loss of dependency	Rs. 10,23,672/-
2. Conventional heads	Rs. 30,000/-
4. Treatment	Rs. 16,150/-
Total	Rs. 10,69,822/-

7. Thus, the claimant is entitled for total compensation of Rs.10,69,872/- rounded to Rs.10,70,000/- (Rupees ten lakhs seventy thousand only), with interest @ 7.5% per annum from the date of petition till the date of realisation. Respondents 1 and 2 are jointly and severally liable to pay the compensation amount and they are directed to deposit the compensation amount with interest and costs within three months from the date of this judgment. On

³ 2017(7) 170 (SC)

such deposit the claimant is entitled to withdraw the same. In all other aspects, the order passed by the Tribunal is well considered.

8. In view of the above, M.A.C.M.A.No.1111 OF 2015 filed by the Insurance Company is dismissed and M.A.C.M.A.No.1369 of 2015 filed by the claimant is partly allowed. There shall be no order as to costs.

Miscellaneous petitions, if any pending in these appeals shall stands closed.

T.AMARNATH GOUD,J

DATE 16.08.2019
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