THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

MACMA NO. 742 OF 2011

JUDGMENT:

This appeal is directed by the claimants against the order and decree dated 13.11.2007 passed by the Motor Accidents Claims Tribunal-cum-VIII Additional District Judge, Nizamabad in O.P.No.513 of 2003, whereby the tribunal granted compensation of Rs.6,25,912/- with proportionate costs and interest @ 7.5% per annum on account of the accident occurred on 04.08.2002 at 09.30 PM, when the deceased P.Laxminarayana along with his friend going on TVS moped bearing No. AP 25 C 7064, at Tekrial approach road a lorry bearing No. AHT 8239 came in opposite direction at high speed, dashed against the moped, for which the deceased fell down and died on the spot, as against theclaim of Rs.15,00,000/-.

2. For the sake of convenience, the parties herein are referred to as arrayed in the tribunal.

3. Before the tribunal, in order to prove the case of the claimants, PWs.1 and 2 were examined and marked Exs.A1 to A.12. Ex.B.1 was marked on behalf of the respondents, but no oral evidence was adduced on their behalf. The 1st respondent remained exparte. The 2nd respondent filed counter.

4. Learned counsel appearing for the claimants contended that the tribunal failed to appreciate the evidence available on record in proper perspective and that the compensation granted by the

tribunal is meager and hence, prayed to grant just and proper compensation as per the decisions of the Apex Court by allowing the appeal.

5. Learned standing counsel for the insurance company contended that the order passed by the tribunal is well considered and needs no interference of this Court.

6. On perusal of the entire material available on record and having regard to the facts and circumstances of the case, it is a case of death. There is no dispute with regard to the nature of accident and involvement of the vehicle. The age of the deceased is 53 years as observed by the tribunal. As per Ex.A.12-salary certificate, the salary of the deceased was Rs.13,132/- per month. The deceased is self employed and aged about 53 years, as per decision of the apex Court in **National Insurance Company Limited v Pranay Sethi**[1], 10% towards future prospects and Rs.70,000/- towards conventional heads can be granted. The dependants are two in number 1/3rd has to be deducted towards personal expenses of the deceased. The annual income of the deceased comes to Rs.1,14,840/- (Rs.13,132/- x 1/3 (Rs.4,377/-) x 10% (Rs.870/-)x 12). Since the age of the deceased is 53 years, as per the decision of the Apex Court in **Sarala Verma and others v Delhi Transport Corporation and another**[2], the relevant multiplier applicable is '11'. Applying relevant multiplier, the loss of dependency comes to Rs.12,63,240/- (Rs.1,14,840/- x 11).

[1] 2017(6) 170 (SC)
[2] 2009 ACJ 1298

Thus, the claimants are entitled for total compensation of Rs.13,33,240/-(Rs.12,63,240/- + Rs.70,000/-). The enhanced compensation shall carry interest @ 7.5 % per annum from the date of petition till the date of realization. The claimants are entitled to withdraw the compensation amount soon after the deposit is made.

7. In view of the above, the appeal is allowed. There shall be no order as to costs.

Miscellaneous petitions if any, shall stand closed.

T.AMARNATH GOUD,J

Date: 23.12.2019
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