THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.223 OF 2018

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 31-07-2017 passed in M.V.O.P.No.2720 of 2013 by the XXIV-Additional Chief Judge, City Civil Court, Hyderabad-cum-Motor Vehicle Accident Claims Tribunal, Hyderabad (for short, the Tribunal).

2. The brief facts of the case are that appellant No.1 is the wife and appellant No.2 is the mother of the deceased, V.Venkata Subramanya Suri Sastry. On 26.06.2013, when the deceased went to morning walk from Chaitanyapuri to Dilsukhnagar, at about 5.00 AM., a lorry bearing No.AAQ 9414, driven by its driver in a rash and negligent manner, with high speed and dashed him. In the said accident, the deceased sustained grievous injuries and died while shifting to hospital. The claimants filed the above M.V.O.P., claiming compensation of Rs.41,00,000/- for the death of the deceased.

3. Before the Tribunal, respondent No.1-owner of the lorry, remained *ex parte*. Respondent No.2-insurance company, filed its counter denying the allegations made in the claim petition *inter alia* contending that the amount of compensation claimed by the claimants is excessive, exorbitant, imaginary and out of proportion and therefore, sought to dismiss the 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 a total compensation of Rs.17,49,064/- with interest @ 6% per annum. Dissatisfied with the order passed by the Tribunal, the appellants filed the present appeal, seeking enhancement of the compensation.

5. Sri Sreenivasa Rao Veeramachaneni, learned counsel appearing for the appellants, submitted that the Tribunal has granted meager amount of Rs.17,49,064/- against the claim of Rs.41,00,000/- towards compensation, which needs to be enhanced. He further submitted that the deceased was a Central Government Employee, working in HMT Limited Tractors, Division, Jeedimetla, Hyderabad, and as per Ex.A8, he was drawing salary of Rs.31,807/- per month. He further submitted that the appellants are also entitled to addition of 10% on the income of the deceased towards future prospects and 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]**.**

6. Sri A.Ramakrishna Reddy, learned Standing Counsel for respondent No.2, submitted that the Tribunal passed a well reasoned order and therefore, sought to dismiss the appeal.

7. Though P.W.1, wife of the deceased, filed Ex.A8 salary certificate of the deceased to show that the deceased was earning Rs.31,807/- per month, the Tribunal erroneously taken into consideration the net income of the deceased at Rs.25,376/-, which need to be enhanced.

8. In the light of Ex.A8 salary certificate filed by the appellants, this Court *prima facie* convinced that the deceased was earning

[1] 2017(6) ALD 170 (SC)

Rs.31,807/- per month. The appropriate multiplier as per the decision of the Apex Court in **Smt.Sarla Varma**'s case (supra), basing on the age of the deceased at 56 years, is '9'. Apart from the same, the appellants are entitled to addition of 10% towards future prospects, as per the decision of the Hon'ble Supreme Court in **Pranay Sethi** (supra). Therefore, the monthly income of the deceased comes to Rs.34,987/- (Rs.31,807/- + 10% future prospects) and after deducting 1/3rd of the income for his personal expenses, the loss of dependency comes to Rs.25,18,992/- (23,324/- x 12 x 9), which is rounded off to Rs.25,19,000/-. The appellants are also entitled to Rs.70,000/- towards conventional charges, as per **Pranay Sethi**'s case (supra). Therefore, the total compensation comes to Rs.25,89,000/- (Rs. 25,19,000/- + Rs.70,000/-).

9. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed, enhancing the compensation amount awarded by the Tribunal from Rs.17,49,064/- to Rs.25,89,000/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of petition till realization. During the pendency of the appeal, appellant No.2, mother of the deceased, died and hence, appellant No.1 is entitled for the total compensation awarded in this appeal. Miscellaneous petitions pending, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 02.01.2020.
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