

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.Nos.152 OF 2017 and 3361 OF 2017

COMMON JUDGMENT:

MACMA.No.152 of 2017 is preferred by the claimants and MACMA.No.3361 of 2017 is preferred by the 2nd respondent/insurance company questioning the order of the Motor Accidents Claims Tribunal-cum-IX Additional Chief Judge, City Civil Court, at Hyderabad (for short, the Tribunal) in O.P.No.1898 of 2014 dated 07.09.2016.

2. For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Tribunal in the original petition.

3. The brief facts of the case are that on 04.05.2014 at about 10.00 p.m., near Suryavamshi Spinning Mill Gate, opposite to Shubham Garden on Rajiv Rahadari, Aliabad X roads, Shamirpet, Ranga Reddy District. At the material time of the accident, the deceased-D. Ramulamma along with her husband Pentaiah were going by walk by the side of the road from Majeedpur towards Aliabad X roads side and when they reached near Suryavamshi Spinning Mill Gate, opposite to Shubham Garden, Aliabad X Roads and at that time the Mini Bus bearing No.AP-28-TD-1901, driven by its driver with high speed, rashly and negligently proceeding from Siddipet towards Hyderabad side and dashed the deceased. Due to the said impact, the deceased sustained fatal injuries and died on the spot. The accident occurred and the deceased died due to the rash and

negligent driving of the driver of the Mini Bus bearing No.AP-28-TD-1901. The petitioners 1 & 2 are the sons, the 3rd petitioner is the daughter and the 4th petitioner is the husband of the deceased. All the petitioners are the legal heirs and complete dependents on the earnings of the deceased. The deceased-D.Ramulamma was aged about 40 years at the time of the accident and she was quite hale, young, healthy and energetic and was not having any bad habits. Prior to the accident, the deceased used to work as a Mason and earning a sum of Rs.10,000/- per month and used to contribute the same to the maintenance of her family. Hence, the petitioners filed the claim petition claiming compensation of Rs.15,00,000/-, payable by both the respondents, being owner and insurer of the offending mini bus.

4. In the claim petition, the respondents filed separate counters denying the allegations and contended that the amount claimed by the claimants is highly excessive and that they are not liable to pay any compensation and therefore prayed to dismiss the claim petition.

5. After considering the oral evidence of P.Ws.1 & 2 and the documentary evidence of Exs.A-1 to A-4 & Ex.B-1, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the offending mini bus and awarded total compensation of Rs.11,37,600/-, i.e., Rs.9,12,600/- towards loss of income, Rs.1,00,000/- towards

loss of consortium, Rs.1,00,000/- towards loss of estate and Rs.25,000/- towards funeral expenses, with interest @ 7% per annum from the date of petition till the date of realization, payable by both the respondents. Aggrieved by the said order, the claimants filed MACMA.No.152 of 2017 and the 2nd respondent/insurance company filed MACMA.No.3361 of 2017.

6. Heard Sri P.Rama Krishna Reddy, learned counsel appearing for the claimants and Smt P.Satya Manjula, learned standing counsel for the 2nd respondent/insurance company. Perused the material record.

7. Sri P.Rama Krishna Reddy, learned counsel appearing for the claimants, contends that the compensation amount awarded by the Tribunal is very meager and prayed to enhance the same.

8. Smt P.Satya Manjula, learned standing counsel appearing for the 2nd respondent/insurance company, submitted that the claimants have not filed any income proof of the deceased stating that she was working as Mason and earning Rs.10,000/- per month. She further contended that as per the decision reported in **Ramachandrappa v. The Manager, Royal Sundaram Aliance Insurance Company Limited**¹, if there is no income proof, then the monthly salary of the deceased has to be fixed @ Rs.4,500/-, but the Tribunal has erroneously taken the monthly salary of the deceased @ Rs.6,000/-.

¹ AIR 2011 Supreme Court 2951

9. Though it is mentioned in the claim petition that the deceased was working as Mason and earning Rs.10,000/- per month, but since the claimants have not filed any income proof of the deceased, as per **Ramachandrappa's** case (supra), this Court is inclined to take the monthly income of the deceased at Rs.4,500/- per month. Apart from the same, since the deceased was aged about 40 years at the time of the accident as per Ex.A-2-charge sheet and Ex.A-3-Inquest Report, the appellants are entitled to addition of 40% towards future prospects, as per the decision of the Hon'ble Supreme Court in **National Insurance Co. Ltd. Vs. Pranay Sethi**². Therefore, the monthly income of the deceased comes to Rs.6,300/- (Rs.4,500/- + Rs.1,800/-), and after deduction of 1/4th towards personal expenses of the deceased since there are four family members, the monthly income of the deceased comes to Rs.4,725/- (Rs.6,300/- - Rs.1,575/- (1/4)). Thus, the annual income of the deceased comes to Rs.56,700/- (Rs.4,725/- x 12 months). Since the age of the deceased was 40 years at the time of the accident, the appropriate multiplier for the age of the deceased is '15' as per the decision reported in **Sarla Verma and others v. Delhi Transport Corporation and Another**³. Hence, the compensation under the head 'loss of income' comes to Rs.8,50,500/- (Rs.56,700/- x 15). Apart from the same, the appellants are entitled to Rs.70,000/- towards conventional heads, as per the decision of the Hon'ble Supreme Court in

² 2017(6) ALD 170 (SC)

³ (2009) 6 SCC 121

Pranay Sethi's case (supra). Therefore, the total compensation comes to Rs.9,20,500/- (Rs.8,50,500/- + Rs.70,000/-). Except the said modification, the remaining operative portion of the impugned order is confirmed.

10. In the result, MACMA.No.3361 of 2017 filed by the 2nd respondent/insurance company is partly allowed by reducing the compensation amount awarded by the Tribunal from Rs.11,37,600/- to Rs.9,20,500/-, payable by both the respondents jointly and severally. The said amount shall carry interest @ 7% per annum from the date of petition till realization. The respondents are directed to deposit the compensation amount along with proportionate costs and interest within two (02) months from the date of receipt of a copy of this order. On such deposit, the claimants are permitted to withdraw their respective shares as awarded by the Tribunal.

11. M.A.C.M.A.No.152 of 2017 filed by the claimants seeking enhancement is dismissed.

There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 2nd January, 2020

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