

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.419 OF 2017

JUDGMENT:

This appeal is filed by the appellants/claimants aggrieved by the Order and Decree dated 06.06.2016 passed in M.V.O.P.No.750 of 2014 by the Motor Accident Claims Tribunal-cum-Chief Judge, City Civil Courts, Hyderabad (for short, the Tribunal).

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 the 1st petitioner is wife, petitioners 2 to 4 are the daughters of the deceased- Nageshwar Rao. On 30.12.2013 the deceased and one Saleem were proceeding on Hero Honda Motorcycle bearing No.AP 09 CN 6507 from Amberpet towards Shivam side slowly on the extreme left side of the road and when they reached near bus stop No.6, Amberpet, Hyderabad, meantime one RTC bus was stopped behind the said bus, the deceased motorcycle was also stopped waiting for the bus to move. At the same time, APSRTC bus bearing No.AP 10Z 9619 belonging to Chengicherla Depot driven by its driver with high speed rash and negligently and dashed the motorcycle of the deceased from backside and also dashed the bus which was already halt at the bus stop due to which the deceased crushed between the

stationed APSRTC bus and the crime APSRTC bus and the deceased died on the spot. Prior to the accident, the deceased was aged about 45 years old and he was working as a Mason in Dhrumataru Consultants, Banjara Hills, Hyderabad, and he was drawing a sum of Rs.15,000/- per month as salary besides other benefits. The petitioners have lost their affection and they are bed ridden and in mental shock. Hence, the petitioners filed the claim petition claiming compensation of Rs.15,00,000/-, payable by the respondents/APSRTC.

4. Before the Tribunal, the respondents/APSRTC filed its counter denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

5. After considering the oral evidence of P.Ws.1 to 3 and the documentary evidence of Exs.A-1 to A-8, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the offending bus bearing No.AP 10Z 9619 and the Tribunal has actually calculated the total compensation as Rs.18,60,000/- i.e., Rs.17,55,000/- towards loss of dependency, Rs.5,000/- towards transportation charges, Rs.15,000/- towards cremation and obsequies charges, Rs.5,000/- towards damages to clothing and motorcycle, Rs.30,000/- towards loss of estate and Rs.5,000/- towards loss of consortium, but since the claimants have claimed only Rs.15,00,000/-, the Tribunal restricted the same

to Rs.15,00,000/- and awarded an amount of Rs.15,00,000/- towards compensation with interest @ 9% per annum from the date of petition till the date of deposit payable by the respondents jointly and severally. Dissatisfied with the quantum of compensation, the appellants/claimants filed the present appeal seeking enhancement of the same.

6. Heard Sri Jagathpal Reddy Kasi Reddy, learned counsel appearing for the appellants/claimants and Sri N.Vasudeva Reddy, learned standing counsel appearing for the respondents/APSRTC. Perused the material record.

7. Sri Jagathpal Reddy Kasi Reddy, learned counsel appearing for the appellants/claimants, contends that the Tribunal has not taken the future prospects of the deceased @ 25% as per the decision reported in **National Insurance Co. Ltd. Vs. Pranay Sethi**¹ and the Tribunal has awarded an amount of Rs.95,000/- under the heads of cremation and obsequies, loss of estate and loss of consortium, but as per the decision reported in **Pranay Sethi's** case (supra), the above said heads come under the head of 'conventional charges' and hence, an amount of Rs.70,000/- has to be awarded to the appellants and prayed to enhance the compensation awarded by the Tribunal.

8. Sri N.Vasudeva Reddy, learned standing counsel appearing for the respondents/APSRTC, submitted that the

¹ 2017(6) ALD 170 (SC)

Tribunal passed a well reasoned order and sought to dismiss the appeal.

9. Though the claim is made for Rs.15,00,000/-, it is a bounden duty of this Court to award just and proper compensation. Prior to the accident, since the deceased was working as a Mason in Dhrumataru Consultants, Banjara Hills, Hyderabad, and drawing a sum of Rs.15,000/- per month as salary besides other benefits, the Tribunal has taken the salary of the deceased @ Rs.15,000/- per month. Therefore, this Court is also inclined to take the monthly salary of the deceased @ Rs.15,000/-. The Tribunal did not grant any amount towards future prospects. Therefore, the appellants are entitled to addition of 25% towards future prospects, as per the decision of the Hon'ble Supreme Court in **Pranay Sethi's** case (supra). Therefore, the monthly income of the deceased comes to Rs.18,750/- (Rs.15,000/- + Rs.3,750/-), 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.14,062/- (Rs.18,750/- - Rs.4,688/- (1/4)). Therefore, the annual income of the deceased comes to Rs.1,68,744/- (Rs.14,062/- x 12 months). The multiplier for the age of the deceased is '13' as per the decision reported in **Sarla Verma and others v. Delhi Transport Corporation and Another**². Hence, the compensation under the head 'loss of dependency' comes to Rs.21,93,672/- (Rs.1,68,744/- x 13).

² (2009) 6 SCC 121

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 **Pranay Sethi's** case (supra). The amounts of Rs.5,000/- each awarded by the Tribunal under the heads of Transportation charges and damages to clothing and motorcycle remains unchanged. Therefore, the total compensation comes to Rs.22,73,672/- (Rs.21,93,672/- + Rs.70,000/- + Rs.5,000/- + Rs.5,000/-). Insofar as the interest is concerned, for the amount awarded by the Tribunal, interest of 9% shall continue and with regard to the enhanced amount, interest of 7.5% shall be computed. Except the said modification, the order of the Tribunal remains unchanged.

10. In the result, the Motor Accident Civil Miscellaneous Appeal is allowed enhancing the compensation amount awarded by the Tribunal from Rs.15,00,000/- to Rs.22,73,672/- payable by both the respondents jointly and severally. The enhanced amount shall carry interest @ 7.5% per annum from the date of petition till realization. As the claimants claimed only Rs.15,00,000/-, they are directed to deposit deficit Court fee before the Tribunal. The respondents are directed to deposit the enhanced 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 appellants are permitted to withdraw their respective shares as

awarded by the Tribunal, subject to payment of deficit court fee. No costs.

Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 2nd January, 2020

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