THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.731 of 2016

JUDGMENT:

This appeal is filed by the appellants-petitioners aggrieved by the Order and Decree dated 01.12.2015 passed in O.P.No.604 of 2012 by Chairman, Motor Accidents Claims Tribunal (District Judge), Nizamabad (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 petitioners are parents of the deceased Nimma Rama Krishna. On 29.12.2012 while the deceased was proceeding on his motorcycle bearing No.AP-09-BB-1072, driven by one C.Rajeshwar, as a pillion rider, from Nizamabad to Mittapur Village, on the left side of the road at normal speed and at about 6:45 PM when they reached the limits of Abbapur Village, the lorry bearing No.AP-16-TY-6417 driven by its driver came at high speed in a rash and negligent manner and dashed against the motorcycle, as a result of which, the deceased Nimmala Rama Krishna fell down by the motorcycle and received grievous injuries. Immediately he was shifted to Government Head Quarters Hospital, Nizamabad, where while undergoing treatment, the deceased succumbed to injuries. The petitioners incurred expenditure of Rs.1,00,000/- for transportation of the dead body and for

performing funeral. At the time of accident, the deceased was aged about 20 years and doing agriculture by taking the lands of others on lease and getting income of Rs.20,000/- per month and contributing the same to the welfare and maintenance of the family. Due to his untimely death in the accident, the petitioners lost their income and put to sufferance. Hence, the petitioners are claiming compensation of Rs.12,00,000/- from respondent Nos.1 and 2, who are the owner and insurer of the offending lorry.

4. Before the Tribunal, respondent No.1 remained *ex parte.* Respondent No.2 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 & 2 and R.W.1 and the documentary evidence of Exs.A-1 to A-6 and Ex.B.1-copy of insurance policy, the Tribunal came to the conclusion that the accident had occurred due to the rash and negligent driving of the driver of the offending lorry and awarded total compensation of Rs.7,98,000/- i.e., Rs.6,48,000/- loss of dependency, Rs.1,00,000/- towards loss of love and affection, Rs.25,000/- towards loss of estate and Rs.25,000/- towards funeral expenses, with interest @ 7.5% from the date of petition till the date of deposit, payable by both the respondents. Dissatisfied with the quantum of

compensation, the appellants filed the present appeal, seeking enhancement of the same.

6. Heard Sri Azar Sravan Kumar, learned counsel for the appellants and Sri A.Rama Krishna Reddy, learned Standing Counsel for the 2nd respondent/insurance company. Perused the material record.

7. Sri Azar Sravan Kumar, learned counsel for the appellants, submitted that the appellants are entitled to addition of 40% on the income of the deceased towards future prospects as per the ratio laid down by the Hon'ble Supreme Court in **National Insurance Co. Ltd. v. Pranay Sethi[1].** He further submitted that in view of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Co. Ltd. v. Nanu Ram Alias Chuhru Ram & Others[2]**, appellants 1 & 2, being the parents of the deceased, are entitled to Rs.40,000/- each under the head of loss of filial consortium.

8. Sri A. Rama Krishna Reddy, learned standing counsel appearing for the 2nd respondent/insurance company, submitted that the Tribunal passed a well reasoned order and sought to dismiss the appeal.

9. In view of the settled law laid down by the Apex Court on different issues in several decisions, the entire compensation needs to be re-determined. Since the Tribunal has taken the

[1] 2017(6) ALD 170 (SC)
[2] 2018 LawSuit (SC) 904

notional income of the deceased @ Rs.6,000/- per month, this Court is also inclined to consider the same. Apart from the same, the appellants are entitled to addition of 40% towards future prospects, as per the decision of the Hon'ble Supreme Court in **Pranay Sethi** (supra). Therefore, monthly income of the deceased comes to Rs.8,400/- (Rs.6,000/- + Rs.2,400/- (40%)), and after deduction of 50% towards personal expenses of the deceased since the deceased was unmarried at the time of the accident, the net monthly income of the deceased comes to Rs.4,200/- (Rs.8,400/- - Rs.4,200/- (50%)). Therefore, the annual income of the deceased comes to Rs.50,400/- (Rs.4,200/- X 12 months). Since the age of the deceased was 25 years at the time of the accident, as considered by the Tribunal, the multiplier for the age of the deceased is '18' 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 dependency' comes to Rs.9,07,200/- (Rs.50,400/- X 18). The appellants are also entitled to Rs.30,000/- towards conventional charges, as per **Pranay Sethi**'s case (supra). In the light of **Nanu Ram Alias Chuhru Ram**'s case (supra), a sum of Rs.40,000/- each i.e., Rs.80,000/- is granted to appellants 1 & 2 under the head of loss of filial consortium. Therefore, the total compensation comes to Rs.10,17,200/- (Rs.9,07,200/- + Rs.30,000/- +

[3] (2009) 6 SCC 121

Rs.80,000/-). Except the said enhancement, the rest of the award passed by 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.7,98,000/- to Rs.10,17,200/- 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. 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. No costs.

Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 8th January, 2020

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