HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

WEDNESDAY ,THE ELEVENTH DAY OF MARCH
TWO THOUSAND AND TWENTY

PRESENT

THE HONOURABLE SRI JUSTICE K.LAKSHMAN

M.A.C.M.A. NO: 17 OF 2014

Appeal filed Under Section 173 of M.V.Act against the Order and Decree made in M.V.O.P.No.2367 of 2011 dated 29.06.2013 on the file of the Court of the Chairman, Motor Accidents Claims Tribunal-Cum-X Additional Chief Judge, City Civil Court, Hyderabad.

Between:

1. Smt.V.Usha Gayatri W/o.late V.Sai Murali Mohan Occ: House wife
2. V.Ramachadnra Rao, S/o.V.Venkata Narayana Occ: Nil
3. Smt.V.Muthya Vani, W/o.V.Ramachadnra Rao Occ: Housewife
   All are R/o.H.No.6-3-107, Shivaji Nagar, Sanga Reddy, Medak District.
   Temporarily R/o.H.no.17-2-148/1/2/A, Malakpet, Hyderabad.

...APPELLANTS/PETITIONERS

AND

1. The A.P.S.R.T.C., rep by its Managing Director, Bus Bhavan, Musheerabad, RTC "X" Roads, Hyderabad.
2. The A.P.S.R.T.C, rep by Depot Manager, Sangareddy Depot, Medak District.
3. Devuni Krishna, S/o.D.Saiyanna, Aged: Major Occ: Business R/o.H.No.2-5-204, Rachannapet {V], Zaheerabad Madnal, Medak District.
4. National Insurance Co Ltd, rep by its Regional Manager O/o.Jubilee Building, 1st Floor, Nampally Station Road, Abids, Hyderabad.

...RESPONDENTS/RESPONDENTS

Counsel for the Appellants : SRI. JAGATHPAL REDDY KASI REDDY

Counsel for the Respondent Nos.1&2 : SRI N.VASUDEVA REDDY (SC FOR APSRTC)

Counsel for the Respondent No.3 : SRI CHETLURU SREENIVAS

Counsel for the Respondent No.4 : SRI T. RAMULU

The Court made the following: JUDGMENT

HON'BLE SRI JUSTICE K.LAKSHMAN

M.A.C.M.A. No.17 of 2014

JUDGMENT:

Feeling aggrieved by the order dt.29-06-2013 in O.P.No.2367 of 2011 passed by the Motor Accident Claims Tribunal (X Additional Chief Judge, City Civil Court), Hyderabad (for short 'the Tribunal), the appellants/claimants preferred the present appeal.

2. The Tribunal has awarded an amount of Rs.10,53,000/- towards compensation with 7.5% interest per annum as against the claim of Rs.15.00 lakhs claimed by the appellants.

3. On consideration of the entire evidence, the Tribunal gave a finding that the accident was due to rash and negligent driving of the driver of the vehicle i.e. bus bearing No.AP 23 W 5843. The respondents did not file any appeal challenging the said finding and the said finding attained finality.

4. Now the only question falls for consideration by this Court is with regard to quantum of compensation.

5. It is the specific contention of the appellants that the deceased was aged 32 years as on the date of accident. However, the appellants have not filed any proof to show that the deceased was aged about 32 years as on the date of accident. The Tribunal relying on Ex.A-5-post mortem examination report, considered the age of the

deceased as 32 years. Therefore, in the absence of any contra evidence, according to this Court, the Tribunal has rightly considered the age of the deceased as 32 years and rightly applied the multiplier '16' for the age of 32 years following the principle laid down by the Apex Court in **Sarla Verma and others v. Delhi Transport Corporation and another**[1].

6. With regard to the monthly earning capacity of the deceased, it is the specific contention of the appellants that the deceased used to work as Clerk in MNR Engineer College, and used to earn Rs.7,500/- per month. In proof of the same, the claimants have filed Ex.A-14-salary certificate, Exs.A-15 and A-16-vouchers for the months of August and September, 2011. The appellants have also examined P.W.3, accountant of the said college.

7. As per Exs.A-14 to A-16, the deceased used to earn an amount of Rs.6,000/- per month. P.W.3, the accountant of the MNR College, deposed that on completion of probation, the deceased would be getting an amount of Rs.9,000/- per month. But he has not filed any documents in proof of the same. However, learned counsel for the appellants relied upon the principle laid down by the Apex Court in the case reported in **Ramarao Lala Borse v. New India Assurance Co. Ltd.,**[2]. In the said case, the High Court discussed and considered the evidence of both oral and documentary on record with regard to benefits under Sixth Pay Commission and considered the

[1] 2009 (4) SCJ 91 = 2009 (6) SCC 121
[2] (2018) 3 S.C.C. 204

monthly earning capacity of the deceased therein as Rs.40,000/-. The Apex Court confirmed the said finding of the High Court. Whereas in the present case, there is no material to show that the deceased would be getting Rs.9,000/- per month except one sentence of P.W.3. In the absence of any evidence, the Tribunal has rightly considered the monthly earning capacity of the deceased at Rs.6,000/-. This Court is satisfied with the said finding of the Tribunal in considering Rs.6,000/- as monthly earning capacity of the deceased.

8. Further, as rightly held by the Tribunal, since there are three dependents of the deceased, as per the principle laid down by the Apex Court in **Sarla Verma** (1 supra), 1/3rd income of the deceased should be deducted from out of the actual income towards deceased personal and living expenses. Therefore, the said finding of the Tribunal can be maintained.

9. Further, since at the time of accident, the deceased was aged about 32 years, the correct multiplier as applied by the Tribunal is '16' as per **Sarla Verma** (1 supra). Hence, the total loss of dependency in respect of the contribution towards his family members comes to Rs.7,68,000/- {4000 (6000-1/3rd i.e. 2000) x12x16} and the Tribunal rightly granted the same towards loss of dependency. Therefore, the compensation granted under this head shall remain unchanged.

10. Further, as per the decision of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi**[3], the appellants are entitled for 40% of the income towards future prospects of the deceased i.e. Rs.3,07,200/-.

11. Further, the Tribunal awarded an amount of Rs.30,000/- i.e. Rs.10,000/- each to the appellant Nos.1 to 3 towards love and affection and also granted an amount of Rs.10,000/- towards funeral expenses. However, compensation granted under these heads is to be reconsidered as per the decision of the Supreme Court in **Magma General Insurance Company Limited v. Nanu Ram @ Chuhru Ram**[4]. Therefore, following the said judgment, compensation of Rs.40,000/- to the 1st appellant-wife towards spousal consortium and Rs.80,000/- (Rs.40,000/- each) to the appellant Nos.2 and 3-parents towards filial consortium is granted. Likewise, the appellants are also entitled for Rs.15,000/- towards loss of estate; Rs.15,000/- towards funeral expenses; Rs.5,000/- towards transportation; and Rs.5,000/- towards damages of clothes.

12. Thus in all, the appellants are entitled for the compensation as mentioned below:

Sl.No.	Name of Head	Awarded compensation Rs.
01.	Loss of dependency {4000 (6000-1/3rd i.e. 2000) x12x16}	7,68,000/-
02.	Future prospects (40%)	3,07,200/-
03.	Loss of estate	15,000/-
04.	Funeral expenses	15,000/-
05.	Spousal Consortium	40,000/-

[3] 2017 (6) 170 (SC)
[4] 2018 Law Suit (SC) 904

06.	Filial Consortium	80,000/-
07.	Transportation charges	5,000/-
08.	Damages to the clothes	5,000/-
	Total	12,35,200/-

13. As discussed supra, the accident was occurred due to rash and negligent driving of the driver of the bus belongs to respondent No.3-owner and respondent No.4 is the insurer of the said bus. Respondent Nos.1 and 2-Corporation is the hirer of the said bus. In view of the principle held by the Apex Court in **Managing Director, Karnataka State Road Transport Corporation v. New India Assurance Company Ltd.**[5], the registered owner, insurer and hirer are jointly and severally liable to pay the compensation to the claimants. Respondent Nos.1 and 2-Corporation is at liberty to initiate appropriate legal steps in accordance with the terms of lease agreement.

14. In the result, the appeal is allowed in part and the compensation is enhanced from Rs.10,53,000/- to Rs.12,35,200/- (Rupees Twelve Lakhs Thirty Five Thousand and Two Hundred only). The enhanced amount of compensation shall carry interest at 7.5% per annum from the date of petition till the date of realization. The respondents are directed to deposit the enhanced amount along with proportionate costs and interest within one month from the date of receipt of a copy of this order, after deducting the amount, if any deposited. On such deposit, the appellants/claimants are permitted to withdraw the entire amount. No costs.

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[5] (2016) 2 SCC 382

15. Miscellaneous petitions pending, if any, shall stand closed.

SD/- CH. VENKATESWAR
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Chairman, Motor Accidents Claims Tribunal-Cum-X Additional Chief Judge, City Civil Court, Hyderabad. (With Records)
2. One CC to Sri Kasi Reddy Jagathpal Reddy, Advocate (OPUC)
3. One CC to Sri T.Ramulu ,Advocate (OPUC)
4. One CC to Sri N.Vasudeva Reddy ,Advocate (OPUC)
5. One CC to Sri Chetluru Sreenivas,Advocate (OPUC)
6. Two CD Copies

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HIGH COURT

DATED:11/03/2020

JUDGMENT

M.A.C.M.A.No.17 of 2014



Partly allowing the M.A.C.M.A
Without costs.

SSN
Copies
Dt 9/6/2020