THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1593 OF 2016

JUDGMENT:

This appeal is filed by the appellants-petitioners aggrieved by the Order and Decree dated 19.02.2016 passed in O.P.No.2730 of 2014 by the Motor Vehicles Accidents Claims Tribunal-cum-II Additional Chief Judge, City Civil Court, 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 petitioners are the parents of the deceased Raju Kiran Naidu. On 24.11.2014 at about 3:30 hours, while the deceased and his friend were proceeding on Active Motorcycle bearing No.AP 13BR 5520 from Bhoiguda to Upper Tank Bund, Hyderabad, and when they reached near Gurram Jashuwa statue at Upper Tank Bund, at that time one I 20 car bearing No.AP 28 CE 1818, which was driven by its driver, came at high speed in a rash and negligent manner and dashed the deceased bike, as a result of which they fell down from the vehicle on the road and sustained severe injuries and the deceased died on the spot and his friend received grievous injuries. Prior to the accident, the deceased was earning Rs.9,000/- per month by doing private service at Narsimhareddy work shop and look after the welfare of his parents, who are the petitioners. Hence, the petitioners are

claiming total compensation of Rs.8,00,000/- from the respondents. The 1st respondent is the owner and 2nd respondent is insurer of the crime vehicle, who are liable to pay compensation to the petitioners.

4. Before the Tribunal, both the respondents filed separate counters 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 R.W.1 and documentary evidence of Exs.A-1 to A-10 and Exs.B-1 & B-2, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the offending car and awarded total compensation of Rs.6,55,000/-, i.e., Rs.5,40,000/- towards loss of dependency, Rs.1,00,000/- towards loss of love and affection and estate, Rs.10,000/- towards funeral expenses and Rs.5,000/- towards transport charges, with interest @ 9% per annum from the date of petition till the date of order and thereafter @ 6% per annum till payment, 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 Veeramachaneni Srinivasa Rao, learned counsel appearing for the appellants and Sri Harinath Reddy Soma, learned standing counsel appearing for the 2nd respondent-Insurance Company.

7. Sri Veeramachaneni Srinivasa Rao, learned counsel for the appellants, submitted that the Tribunal has taken the monthly notional income of the deceased @ Rs.4,000/-, which is very low and 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 Harinath Reddy Soma, 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 notional income of the deceased @ Rs.4,000/- per month, which is very meager, this Court is of the view that it would be just and proper if an amount of Rs.6,500/- is considered as monthly notional income of the deceased. Apart from the same, the appellants are entitled to addition of 40% towards future

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

prospects, as per the decision of the Hon'ble Supreme Court in **Pranay Sethi** (supra). Therefore, monthly income of the deceased comes to Rs.9,100/- (Rs.6,500/- + Rs.2,600/- (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.4,550/- (Rs.9,100/- - Rs.4,550/- (50%)). Therefore, the annual income of the deceased comes to Rs.54,600/- (Rs.4,550/- X 12 months). Since the age of the deceased was 20 years at the time of the accident, the multiplier for the age of the deceased is '18' as per the decision of the Apex Court reported in **Sarla Verma and others v. Delhi Transport Corporation and Another**[3]. Hence, the compensation under the head of 'loss of dependency' comes to Rs.9,82,800/- (Rs.54,600/- 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. The amount of Rs.5,000/- granted by the Tribunal towards transport charges remains un-changed. Therefore, the total compensation comes to Rs.10,97,800/- (Rs.9,82,800/- + Rs.30,000/- + Rs.80,000/- + Rs.5,000/-). Except the said enhancement, the rest of the award passed by the Tribunal remains unchanged.

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[3] (2009) 6 SCC 121

10. In the result, the Motor Accident Civil Miscellaneous Appeal is allowed enhancing the compensation amount awarded by the Tribunal from Rs.6,55,000/- to Rs.10,97,800/- 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.8,00,000/-, 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: 9th January, 2020

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