**THE HON'BLE SRI JUSTICE T.AMARNATH GOUD**

**M.A.C.M.A. No.1820 of 2015**

**JUDGMENT:**

This appeal is filed by the appellants-petitioners aggrieved by the Order and Decree dated 01.10.2014 passed in M.V.O.P.No.144 of 2012 by Chairman, Motor Accidents Claims Tribunal-cum-Judge, Family Court-cum-Additional District Judge, Karimnagar (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 the wife, petitioners 2 & 3 are the children and the 4th petitioner is the father of the deceased Tadem Ramesh, who died in a motor accident on 13.06.2011 at 2:00 PM at Bommakal Bye-pass road. According to the petitioners, on 13.06.2011 the deceased went to his sister's house and was returning on motor bike bearing No.AP-15-8281, and when he reached Dharmakanta office on Bye-pass road, Bommakal, Karimnagar, at about 2:00 PM, a lorry bearing No.AP-23-U-8599 driven its driver (respondent No.1) came in a opposite direction, at high speed and in a rash and negligent manner and dashed against the deceased's motor bike, as a result of which the deceased sustained severe head injury and other grievous injuries and died on the spot. The accident had occurred due to rash and

negligent driving of the 1st respondent. Prior to the date of accident, the deceased was doing agriculture work and earning Rs.10,000/- per month and the petitioners are totally depending on the earnings of the deceased. Hence, the petitioners filed the claim petition claiming compensation of Rs.12,00,000/-, payable by all the respondents, being the driver, owner and insurer of the offending lorry.

4. Before the Tribunal, respondent No.3 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 and 2 and the documentary evidence of Exs.A-1 to A-12, the Tribunal came to the conclusion that the accident had occurred due to the rash and negligent driving of the 1st respondent and awarded total compensation of Rs.8,08,000/- i.e., Rs.7,48,000/- towards loss of dependency, Rs.25,000/- towards loss of consortium, Rs.25,000/- towards loss of estate and Rs.10,000/- towards future expenditure, with interest @ 7.5% per annum from the date of petition till the date of deposit, payable by respondents 2 & 3 jointly and severally and it is held by the Tribunal that since the 4th petitioner reported died during pendency of the petition and no steps were taken, as such he is not entitled for any amount. Dissatisfied with the

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

6. Heard Sri T.Ramulu, learned counsel for the appellants and Sri A.Ramakrishna Reddy, learned Standing Counsel for the 3rd respondent/insurance company. Perused the material record.

7. Sri T.Ramulu, learned counsel for the appellants, submitted that though it is stated in the claim petition that the deceased was an agriculturist and also running a tractor and earning Rs.10,000/- per month, but since there is no proof of income, the Tribunal has fixed the notional income of the deceased @ Rs.4,000/- per month, which is very meager. He further submitted that the appellants are also 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 2 & 3, being the minor children of the deceased, are entitled to Rs.50,000/- each i.e., Rs.1,00,000/- towards loss of love and affection.

8. Sri A.Rama Krishna Reddy, learned standing counsel appearing for respondent No.3/insurance company, submitted

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

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

9. Admittedly, since there is no income proof, the Tribunal has fixed the notional income of the deceased @ Rs.4,000/- per month, which is very meager. Therefore, this Court is of the opinion that it would be just and proper if an amount of Rs.5,000/- is fixed as a monthly notional income of the deceased. Apart from the same, since the deceased was aged about 35 years as on the date of the accident, 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.7,000/- (Rs.5,000/- + Rs.2,000/- (40%)), and after deduction of 1/3rd towards personal deductions of the deceased since there are three family members of the deceased, the monthly income of the deceased would come to Rs.4,666/- (Rs.7,000/- - Rs.2,334/- (1/3)). Therefore, the annual income of the deceased comes to Rs.55,992/- (Rs.4,666/- X 12 months). The multiplier for the age of the deceased is '16' as per the decision 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.8,95,872/- (Rs.55,992/- X 16). The appellants are also entitled to Rs.70,000/- towards conventional charges, as per **Pranay Sethi**'s case (supra). In the light of **Nanu Ram Alias**

[3] (2009) 6 SCC 121

**Chuhru Ram**'s case (supra), a sum of Rs.50,000/- each i.e., Rs.1,00,000/- is granted to appellants 2 & 3, being the minor children of the deceased, under the head of loss of love and affection. Therefore, the total compensation comes to Rs.10,65,872/- (Rs.8,95,872/- + Rs.70,000/- + Rs.1,00,000/-).

10. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed enhancing the compensation amount awarded by the Tribunal from Rs.8,08,800/- to Rs.10,65,872/-, payable by respondents 2 & 3 jointly and severally to appellants 1 to 3. The enhanced amount shall carry interest @ 7.5% per annum from the date of petition till realization. Respondents 2 & 3 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 1 to 3 are permitted to withdraw their respective shares as awarded by the Tribunal. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

**T.AMARNATH GOUD, J**

Date: 9th January, 2020

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