

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.2924 OF 2017

JUDGMENT:

This appeal is filed by the appellant/respondent/TSRTC aggrieved by the Order and Decree dated 07.06.2017 passed in M.V.O.P.No.2269 of 2014 by the Motor Accident Claims Tribunal-cum-The Court of the 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 1 & 2 are the parents and 3rd petitioner is the brother of the deceased-S.Kalpana, aged about 21 years, working as Phone Banking Officer in ICICI Bank and earning Rs.10,000/- per month at the time of the accident. On 22.12.2007 at about 8.45 hours, the deceased was standing in the bus stop at Swarnajayanthi Complex, Ameerpet. At that time, TSRTC bus Garuda bearing No.AP 11 Z 5622 came from S.R. Nagar towards Ameerpet in rash and negligent manner and dashed against her. As a result, she sustained serious injuries and she was immediately shifted to the hospital for treatment, while undergoing treatment, she died due to the accidental injuries. Hence, the petitioners filed the claim petition originally claiming compensation of Rs.11,00,000/-, payable by the respondent/TSRTC, with

interest @ 12% per annum, but enhanced the same to Rs.27,50,000/- as per orders in I.A.No.1704 of 2017, dated 22.03.2017.

4. Before the Tribunal, the respondent/TSRTC 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 4 and the documentary evidence of Exs.A-1 to A-16 and Ex.X-1 to X-4, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the offending bus and awarded total compensation of Rs.18,93,070/- i.e., Rs.17,68,068/- towards loss of dependency, Rs.1,00,000/- towards loss of love and affection and Rs.25,000/- towards transportation and funeral expenses, with interest @ 9% per annum from the date of petition i.e., 01.08.2014 till the date of realization of the amount, payable by the respondent/TSRTC. Aggrieved by the said order, the appellant/respondent/TSRTC filed the present appeal.

6. Heard Sri N.Vasudeva Reddy, learned standing counsel appearing for the appellant/TSRTC and Sri K.Venkata Rao, learned counsel appearing for respondents 1 to 3/claimants. Perused the material record.

7. Sri N.Vasudeva Reddy, learned standing counsel appearing for the appellant/TSRTC, contends that the compensation amount awarded by the Tribunal is excessive and prayed to reduce the same.

8. Sri K.Venkata Rao, learned counsel appearing for the respondents 1 to 3/claimants, submitted that the Tribunal passed a well reasoned order and sought to dismiss the appeal.

9. Having regard to the submissions made by Sri N.Vasudeva Reddy, learned standing counsel appearing for the appellant/TSRTC and Sri K.Venkata Rao, learned counsel appearing for the respondents 1 to 3/claimants and 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.

10. With regard to the quantum of compensation is concerned, since the Tribunal has taken the salary of the deceased @ Rs.10,914/- per month, this Court is also inclined to take the salary of the deceased @ Rs.10,914/- per month. Apart from the same, since the deceased worked as Phone Banking Officer in ICICI Bank and aged about 21 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 **National Insurance Co. Ltd. v. Pranay Sethi**¹. Therefore, monthly income of the deceased comes to

¹ 2017(6) ALD 170 (SC)

Rs.15,280/- (Rs.10,914/- + Rs.4,366/- (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.7,640/- (Rs.15,280/- - Rs.7,640/- (50%)). Therefore, the annual income of the deceased comes to Rs.91,680/- (Rs.7,640/- X 12 months). Since the age of the deceased was 21 years at the time of the accident, 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**². Hence, the compensation under the head 'loss of dependency' comes to Rs.16,50,240/- (Rs.91,680/- 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 **Magma General Insurance Co. Ltd. v. Nanu Ram Alias Chuhru Ram & Others**³, a sum of Rs.80,000/- (Rs.40,000/- + Rs.40,000/-) is granted to respondents 1 & 2 under the head of loss of filial consortium. Therefore, the total compensation comes to Rs.17,60,240/- (Rs.16,50,240/- + Rs.30,000/- + Rs.80,000/-). With regard to the interest is concerned, the same is reduced from 9% to 7.5%. Except the said modification, the remaining operative portion of the impugned order is confirmed.

11. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed by reducing the compensation amount

² (2009) 6 SCC 121

³ 2018 LawSuit (SC) 904

awarded by the Tribunal from Rs.18,93,070/- to Rs.17,60,240/- and the interest is reduced from 9% to 7.5% from the date of petition till the date of realization, payable by the appellant/TSRTC. The appellant/TSRTC is directed to deposit the compensation 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 claimants 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: 2nd January, 2020

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