THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

MACMA. No.3378 of 2017

JUDGMENT:

This appeal is filed by the claimants against the order dated 14.09.2017 passed in MVOP.No.727 of 2015 by the Motor Accident Claims Tribunal-cum-the Court of the Chief Judge, City Civil Court, Hyderabad.

Brief facts of the case are that on 23.03.2015 at about 2.30 pm., while one Krishna Reddy, deceased, was proceeding on his Scooty bearing No.TS 09 EA 8684 from Himayatnagar to Narayanaguda and when he reached Hero Honda Showroom, one APSRTC bus bearing No.AP 11 Z 2481 came in rash and negligent manner with high speed and dashed him, as a result, he fell from the Scooty and sustained injuries all over the body and he was shifted to Mahesh Hospital and later to Gandhi Hospital, but he died during treatment on the same day. Police, Narayanaguda, registered a case in Crime No.120/15 under Section 338 IPC and later altered the Section as 304(A) IPC. In view of the said accident, the claimants filed the claim petition claiming compensation of Rs.20,00,000/- along with interest at 18% per annum from the date of petition till the date of realization.

On behalf of the respondents counter was filed denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

After considering the oral evidence of P.Ws.1 to 3 and Exs.A-1 to A-7 and Ex.B-1, the learned Tribunal came to the conclusion that the accident was occurred due to the rash and negligent driving of the driver of the RTC bus and awarded compensation of Rs.7,73,000/- with interest at the rate of 9% per annum.

Having not satisfied with the compensation awarded by the learned Tribunal, claimants have filed the present appeal seeking enhancement of the compensation.

The learned counsel for the claimants submitted that the deceased was working as a Helper in a private Firm and was earning Rs.10,000/- per month. In support of the said contention Ex.A-7, employment certificate issued by P.W.3 is filed and the same is evidenced by P.W.3. But, in support of the statement of P.W.3, he did not choose to file any other documents such as, his IT returns, employment registers or his trade licence etc. In the absence of such evidence, though the learned Tribunal has considered Rs.4,000/- per month towards salary of the deceased, this Court feels that the same is meager to maintain his family with four dependants and with the consent of the learned counsel for the appellant notional income of Rs.8,000/- is considered, which this Court feels just and proper.

He also submitted that the claimants are entitled to addition of 40% on the income of the deceased towards future prospects as per the ratio laid down by the Apex Court in ***NATIONAL INSURANCE COMPANY LIMITED Vs PRANAY SETHI AND OTHERS***[1] since the deceased was below the age of 40 years and Rs.30,000/- (Rs.15,000/- + 15,000/- towards loss of estate and funeral expenses) has also to be granted under the conventional heads. Since the deceased was a bachelor 50% has to be deducted towards his personal expenses and appropriate multiplier in this case would be 18 as per the judgment of the Apex Court in ***SARLA VERMA (SMT) AND OTHERS Vs. DELHI TRANSPORT CORPORATION AND ANOTHER***[2]. Further, as per the ratio laid down in **MAGMA GENERAL INSURANCE COMPANY LIMITED Vs. NANU RAM ALIA CHUHRU RAM**[3] Rs.40,000/- has to be granted to the first petitioner being mother of the deceased.

The learned standing counsel appearing for the Corporation while reiterating the grounds that were raised before the learned Tribunal submitted to dismiss the appeal preferred by the claimants.

Heard the learned counsel appearing for the claimants and the learned standing counsel appearing for the Corporation and perused the material placed on record.

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[1] MANU/SC/1366/2017
[2] (2009) 6 Supreme Court Cases 121
[3] 2018 Law Suit (SC) 904

After going through the judgments referred to hereinabove and taking into consideration the ratios laid down by the Apex Court therein calculations are made as under:

Rs.8,000/- pm., x 12 = 96,000/- + 40% (Rs.38,400/- addition of future prospects) = 1,34,400/- (-) 67,200/- (50% towards personal expenses) = 67,200/- x 18 (multiplier) = 12,09,600/- + 30,000/- + 40,000/- (under conventional heads) = 12,79,600/-.

Accordingly, this appeal is allowed to the extent indicated above enhancing the compensation amount awarded by the learned Tribunal from Rs.7,73,000/- to Rs.12,79,600/-, payable by the respondents 2 and 3 jointly and severally.

The enhanced compensation shall carry interest at the rate of 7.5% per annum from the date of the appeal till its realisation.

The respondents are directed to deposit the enhanced amount of compensation 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, in the same proportion as held by the learned Tribunal. There shall be no order as to costs.

As a sequel, miscellaneous applications, if any pending, shall stand closed.

JUSTICE T.AMARNATH GOUD

Date: 09.01.2020
LSK