THE HON'BLE JUSTICE G. SRI DEVI

M.A.C.M.A. Nos. 1660 of 2010 & 2994 of 2019

COMMON JUDGMENT:

MACMA.No. 1660 of 2010 is preferred by the appellants-Andhra Pradesh State Road Transport Corporation, who are the respondent Nos. 1 & 2 before the Tribunal, assailing the order and decree of the V Additional Metropolitan Sessions Judge (Mahila Court)-Cum-XIX Additional chief Judge, City Criminal Courts at Hyderabad in OP.No. 898 of 2008, dated 02.04.2009 on the grounds that the Tribunal erred in holding that the Corporation is liable; the quantum assessed is also not correct as there was no basis for arriving the earnings of the deceased at Rs.10,000/- per month. Assailing the very same order and decree, MACMA.No. 2994 of 2019 is preferred by the appellants, who are the claimants before the Tribunal, on the grounds of inadequacy of compensation; that the salary taken by the Court below is not appropriate and not based on proper appreciation of evidence; that the amount of Rs. 20,000/-, towards loss of estate is meagre; and no amount towards funeral expenses was granted.

2. Heard both sides.

3. The counsel for the appellants-Corporation contends that in the absence of any cogent evidence, the learned Tribunal ought not to have considered the earnings of the deceased at Rs.10,000/- per month. The learned Tribunal has erred in deducting only 1/3rd of

the income towards the personal expenses of the deceased and considering the fact that the deceased was unmarried, at least 50% of the income should have been deducted towards his personal expenditure.

4. On the other hand, the learned counsel for the claimants-appellants in MACMA No. 2994 of 2019 contends that in the light of the evidence adduced by P.W. 3, who was working as Field Worker in Aspire Career Forum, in which the deceased was working as Graphic Designer, to the effect that the deceased was earning Rs.14,600/- per month, the leaned Tribunal ought to have taken the income of the deceased at Rs.14,600/- per month. Towards loss of estate, the learned Tribunal awarded a meagre amount of Rs.5,000/- each, instead, it ought to have awarded Rs.10,000/- each to the claimant Nos. 1 to 4.

5. A perusal of the record shows that the deceased was working as Graphic Designer in Aspire Career Forum and was earning a sum of Rs.14,600/- per month, in support of which, P.W. 3, Field Worker, was examined by the claimants. However, the details of salary of the deceased was not explained by P.W.3. Even P.W. 3 did not file any authorisation for producing Ex.A.5, salary certificate of the deceased. In the circumstances, the monthly earnings of the deceased can safely be fixed at Rs.12,000/- per month. In the light of the evidence adduced by the claimants, the learned Tribunal ought to have taken the age of the deceased as '24' and ought to have applied the multiplier of '17' instead of '10'.

Considering the fact that the deceased was aged 24 years at the time of fatal accident, 40% towards future prospects should have been awarded. Hence, applying 40% towards future prospects, the income of the deceased would be Rs.16,800/- per month (Rs. 12,000/- + Rs.4,800/- being 40% thereof). Admittedly, the deceased was unmarried at the time of fatal accident. Hence, it is appropriate to deduct 50% towards personal expenses of the deceased from the income. After deducting 50% from the income of the deceased towards his personal expenses, the net monthly loss of income of claimants would be Rs.8,400/- per month (Rs.16,800/- - Rs.8,400/- being 50% thereof) and annual loss of future income of the claimants would be Rs. 1,00,800/-, (Rs.8,400/- x 12). Applying the multiplier of '17' thereto, future loss of income of the claimants is fixed at Rs.17,13,600/- (Rs. 1,00,800/- x 17). Thus, under this head, the claimants are entitled for the enhancement of compensation of Rs.13,13,600/- (Rs.17,13,600/- - Rs.4,00,000/-). That apart, the amount of Rs.5,000/- each granted to the claimants under the head of loss of estate is enhanced to Rs.10,000/- each, which comes to Rs.40,000/-. Furthermore, towards funeral expenses, the claimants are entitled for an amount of Rs.15,000/-. Thus, in all, total compensation comes to Rs.17,68,600/- (Rs.17,13,600/- towards loss of earnings; Rs.40,000/- towards loss of estate; and Rs. 15,000/- towards funeral expenses).

6. In the result, the M.A.C.M.A. No. 1660 of 2010 is dismissed and M.A.C.M.A. No. 2994 of 2019 is allowed by enhancing the compensation amount awarded by the Tribunal from Rs.4,20,000/- to Rs.17,68,600/-. The enhanced amount will carry interest at 7.5% p.a. from the date of order passed by the Tribunal till the date of realization, payable by the respondent Nos. 1 and 2, in the O.P., jointly and severally. The amount of compensation shall be apportioned amongst the claimants in the ratio as ordered by the Tribunal. The claimants shall pay deficit Court fee on the enhanced compensation, since the original claim is for Rs.12,00,000/-. If the deficit court fee is not paid as per Rule 475 of M.V.Rules before the Tribunal, the claimants are not entitled for execution of Award in respect of enhanced compensation. There shall be no order as to costs.

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

JUSTICE G. SRI DEVI

December 09, 2021
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THE HON'BLE JUSTICE G. SRI DEVI

M.A.C.M.A. Nos. 1660 of 2010 & 2994 of 2019

DATE: 09-12-2021