THE HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

MA.CMA.NO.2861 OF 2014

JUDGMENT

Being dissatisfied with the compensation granted by the court of the Motor Vehicle Accidents Claims Tribunal – cum – X Additional Chief Judge, City Civil court at Hyderabad (Tribunal) in MVOP.No.148 of 2011 dated 15.07.2013, the claimants filed the present appeal seeking enhancement.

2. The claimants are the wife, children and mother of the deceased – R.Raju Chari.

3. The case of the claimants is that on 24.07.2010 at about 9 p.m., the deceased Veera Chari alias Raju Chari, after closing his furniture shop at Janagaon was proceeding on his motor cycle – Honda Shine, bearing No. AP 29 AK 2604, and that when he reached near Janagaon Pharmacy College, lorry bearing No. AP 16 TU 2232 came in opposite direction, driven by its driver in a rash and negligent manner, and dashed the motor cycle of the deceased, as a result, deceased fell down from his motor cycle and sustained fatal injuries all over his body. Immediately, he was shifted to Government Hospital, Janagaon, and after first aid, was referred to Gandhi Hospital,

Secunderabad, where he succumbed to injuries while undergoing treatment on 25.7.2010.

4. The further case of the claimants is that the deceased was aged 32 years, as on the date of the accident, and he was a Carpenter, and was also doing business in wood and thereby earning an amount of Rs.10,000/- per month, and was contributing entire earnings to the family. With the death of the deceased, they lost their breadwinner and children lost the love and care of their father. With these averments, they filed claim petition under Section 166 of the Motor Vehicles Act, 1988, claiming compensation of Rs.12,00,000/-.

5. The respondents who are the insured and the insurer of the lorry involved in the accident, contested the claim by denying the averments made in the claim petition, and sought for its dismissal.

6. The Tribunal considering the evidence of P.W.1, who is the wife of the deceased, and also the evidence of P.W.2, who is the eye witness to the accident, coupled with Exs.A-1 to A-5, held that the accident occurred due to rash and negligent driving of the driver of the lorry bearing No. AP 16 TU 2232 and that the deceased died due to the said accident.

7. Further, taking the monthly income of the deceased as Rs.4,500/-, and by applying the multiplier of 16, as the deceased was aged 32 years, and by deducting ¼ towards personal expenses, awarded an amount of Rs.6,68,000/- towards loss of dependency. The Tribunal further awarded an amount of Rs.10,000/- to the claimant No.1, towards loss of consortium, and Rs.10,000/- towards funeral charges, Rs.30,000/- to the claimants 2, 3 and 4 towards loss of love and affection and Rs.10,000/- towards transportation charges. Thus, in all, the Tribunal awarded an amount of Rs.7,08,000/- with interest at the rate of 7.5 per cent per annum.

8. As stated above, not being satisfied with the compensation, the claimants filed the present appeal seeking enhancement.

9. Head Sri P.Rama Krishna Reddy learned counsel for the claimants and Sri T.Mahender Rao, learned counsel for the 2nd respondent – Insurance Company.

10. The case of the claimants is that the deceased was a Carpenter, and also running a furniture shop in the name and style of Manikanta Furniture shop and was earning an amount of Rs.10,000/- per month. In support of their claimant, the wife of the deceased was examined as P.W.1, and filed Ex.A-11 income tax returns for the assessment year 2006-07, I.D.

cards Ex.A-12 and Bill books Ex.A-13 and they also examined P.W.3, who is also a carpenter, and deposed that the deceased was selling furniture worth of Rs.1,00,000/- per month and earning an amount of Rs.10,000/-. But a perusal of Ex.A-11, which is the income tax return for the assessment year 2006-07 shows that the annual income of the deceased was shown as Rs.99,000/-. The Insurance Company did not lead any rebuttal evidence. In these circumstances, the Tribunal is not justified in taking the income of the deceased only as Rs.4,500/-, treating him as a skilled labourer. Having regard to the facts and circumstances and Ex.A-11 income tax returns, I am inclined to take the annual income of the deceased as Rs.99,000/-.

11. As per Exs.A-3 and A-4, which are inquest and post mortem reports respectively, age of the deceased is shown as 32 years. As per the judgment of Apex Court in ***NATIONAL INSURANCE COMPANY LTD. vs. PRANAY SETHI***[1], an addition of 40% of the established income shall be made towards future prospect to the age group of the deceased. 40% of Rs.99,000/- comes to Rs.39,600/-. Thus the total annual income of the deceased including future prospects, comes to Rs.1,38,600/- (Rs.99,000/- + Rs.39,600/- = 1,38,600/-)

[1] AIR 2017 SC 5157

12. The Apex Court in ***SARLA VERMA vs. DELHI TRANSPORT CORPORATION***[2], held that where the number of dependent family members of the deceased are 4 to 6, the deduction towards personal and living expenses, shall be 1/4th. In the present case, the claimants, who are the dependents of the deceased, are four in number. Therefore, the deductions towards personal and living expenses from out of the income of the deceased, shall be 1/4th. Accordingly, if 1/4th is deducted from Rs.1,38,600/-, which is the annual income arrived at by this court, the amount that the deceased would be contributing to his family will come to Rs.1,03,950/- per annum.

13. For the age group of deceased, who is 32, the appropriate multiplier as per column No.4 of the table given in the judgment of the Apex Court in SarlaVerma (supra), is ‘16’. Thus, the claimants are entitled to an amount of Rs.16,63,200/- (Rs.1,03,950/- x 16 = Rs.16,63,200/-) towards loss of dependency.

14. As per the judgment of the Apex Court in PranaySethi’s case (supra), the claimants are entitled to Rs.77,000/- towards conventional

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[2](2009)6 SCC 121

heads. The amount awarded by the Tribunal under the conventional heads noted above, is accordingly modified as per the judgment of the Apex Court.

15. Thus the amount of Rs.7,08,000/- granted by the Tribunal is enhanced to Rs.17,40,200/- (Rs.16,63,200/- + Rs.77,000/- = Rs.17,40,200/-) with interest at the rate of 7.5 per cent per annum from the date of claim petition till the date of realization. The respondents 1 and 2 are jointly and severally liable to pay the compensation.

16. The claimant shall pay the deficit court fee.

17. It is needless to observe that any amount already paid by the Insurance Company shall be given credit to. The apportionment of compensation and its mode of deposit in nationalized bank and withdrawal shall be as ordered by the Tribunal.

18. The appeal is accordingly allowed to the extent indicated above.

19. Interlocutory Applications pending, if any, shall stand closed. No order as to costs.

M.G.PRIYADARSINI,J

DATE:12—10—2022
AVS