

HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1462 of 2006

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 12-07-2005 passed in O.P.No.256 of 2002 by the III Motor Accidents Claims Tribunal, Warangal (for short, the Tribunal).

2. Brief facts of the case are that the claimants filed the claim petition against the respondents herein before the Tribunal claiming compensation of Rs.5.00 lakhs as legal heirs of the deceased alleging that the deceased died in the accident occurred on 02-01-2002 due to the rash and negligent driving of the driver of one RTC bus bearing No.AP 10 Z 1451, when the deceased was going on his scooter bearing No.AP 36 D 8232 to go to his village Narsakkapalli village of Warangal District.

3. In the claim petition, the 1st respondent filed its separate counter denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

4. Respondent Nos.2 and 3 are parents of the deceased filed their counter supporting the claim of the appellants and stated that due to family disputes, appellants filed the claim petition without

consulting them and any how as they are also entitled to receive the compensation, they prayed to allow the claim petition.

5. After considering the oral and documentary evidence on record, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving on the part of the driver of the crime vehicle only. So far as granting of compensation is concerned, the Tribunal granted an amount of Rs.2,29,000/- i.e. Rs.2,16,000/- towards loss of income; Rs.10,000/- towards loss of consortium; Rs.2,000/- towards funeral expenses; and Rs.1,000/- towards transport charges, payable by the 1st respondent with interest at 7.5% per annum through out.

6. Dissatisfied with the quantum of compensation, the appellants/claimants filed the present appeal, seeking for enhancement of the compensation.

7. Heard the learned counsel for the appellants-claimants and Sri B.Mayur Reddy, learned Standing Counsel for the 1st respondent-RTC.

8. Learned counsel for the appellants-claimants contends that it is a case of death and at the time of accident, the deceased was aged about 26 years and earning Rs.5000/- per month by working in a rice mill as a hamali. Hence, he prayed for fair compensation.

9. Learned Standing Counsel for the 1st respondent-RTC, contends that the order passed by the Tribunal is just and proper and

needs no interference and that in the absence of proof of income, the notional income which was considered by the Tribunal in fixing Rs.18,000/- per annum is just and proper and prayed to dismiss the appeal.

10. As seen from the order of the Tribunal, the Tribunal has taken annual income of the deceased at the rate of Rs.18,000/- as he was a non-earning member. Admittedly, in cases of absence of proof of income, notional income at the rate of Rs.4,500/- per month is being considered as per the decision of the Supreme Court in **Ramchandrappa Vs. Manager, Royal Sundaram Alliance Insurance Co. Ltd.**¹, wherein, the Supreme Court held that in case of labourer, minimum wages can be taken as Rs.150/- per day.

11. In spite of that, as per the decision of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi**², the claimants are entitled to be granted future prospects at 40%. Then her monthly income comes to Rs.6,300/- (4500 + 1800) per month i.e. Rs.75,600/- per annum; Considering the four number of dependents of the deceased, 1/4th towards personal expenditure can be deducted out of the said income, then it comes to Rs.56,700/- per annum. Further, since at the time of accident, the deceased was aged about 26 years, the Tribunal has rightly taken multiplier '17'. Hence, the total 'loss of income' in respect of the contribution towards her family members comes to Rs.9,63,900/- (56,700 x 17).

¹ 2011 (6) ALD 75 (SC)

² 2017 (6) 170 (SC)

12. Further, The Tribunal granted Rs.10,000/- towards loss of consortium and Rs.2,000/- towards funeral expenses, totaling Rs.12,000/-. However, compensation granted under these heads is to be re-determined since the deceased was a married person, the claimants are entitled to be granted compensation of Rs.70,000/- towards conventional head, which is covered all these heads, as per the decision of the Supreme Court in **Pranay Sethi** (1 supra). Hence, instead of granting Rs.12,000/- under all these heads, an amount of Rs.70,000/- is granted to the claimants.

13. Further, being minor daughter of the deceased, the claimant No.2 is entitled to be granted compensation of Rs.50,000/- and being parents of the deceased, respondent Nos.2 and 3 are entitled to be granted compensation of Rs.80,000/- (Rs.40,000/- each) towards loss of filial as per the decision of the Supreme Court in **Magma General Insurance Company Limited v. Nanu Ram @ Chuhru Ram**³.

14. Except the above modification, the compensation awarded by the Tribunal i.e. Rs.1,000/- towards transportation shall remain unchanged. Therefore, the claimants are granted total compensation of Rs.11,64,900/- (rounded off to Rs.11,65,000/- i.e. Rs.9,63,900/- towards loss of income; Rs.70,000/- towards conventional; Rs.1,30,000/- towards filial; and Rs.1,000/- towards transportation.

³ 2018 Law Suit (SC) 904

15. In the result, the appeal is allowed by enhancing the compensation awarded by the Tribunal from Rs.2,29,000/- to Rs.11,65,000/- (Rupees Eleven Lakhs Sixty Five Thousand only). The enhanced amount of compensation shall carry interest at 7.5% per annum. The appellants/claimants and respondent Nos.2 and 3 are directed to pay deficit Court Fee. The 1st respondent is directed to deposit the enhanced amount along with proportionate costs and interest within two months from the date of receipt of a copy of this order. On such deposit, the appellants/claimants and respondent Nos.2 and 3 are permitted to withdraw the entire amount proportionately as apportioned by the Tribunal in the impugned order. No costs.

16. Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE T.AMARNATH GOUD

Date: 06.11.2019
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