

THE HON'BLE SMT. JUSTICE P.MADHAVI DEVI

M.A.C.M.A. No.328 of 2017

ORDER :

1. This Motor Accidents Civil Miscellaneous Appeal is filed by the appellant/Insurance company challenging the compensation awarded by the Tribunal in O.P.No.2409 of 2012, dated 16.10.2015 on the file of the MACT-cum-XIII Addl. Chief Judge, City Civil Court at Hyderabad. (in short Tribunal)

2. The claimants sought for compensation of Rs.10,00,000/- on the death of the deceased P.Narsimulu in the accident that occurred on 11.05.2012. The main objection of the appellant/Insurance Company is that the vehicle, which is alleged to have been involved in the accident is a planted one to claim compensation and not the correct vehicle.

3. As regards the compensation awarded to the claimants, the appellant/Insurance Company is also aggrieved by awarding of future prospects at 50% and adopting Rs.7,000/- as monthly income of the deceased and awarding interest @ 9% per annum on the compensation.

4. Having regard to the rival contentions, this Court finds that there was no evidence produced by the Insurance Company in support of its allegation that it is not the vehicle which is alleged to have been involved in the accident. In fact, without any evidence to support thereof, the said ground of the appellant/Insurance Company cannot be entertained.

5. As regards the monthly income of the deceased, the claimants claimed that the deceased was a driver working with M/s.Subishi Developers Pvt Ltd and drawing a salary of Rs.7,000/- per month.

6. The learned counsel for the Insurance Company submits that there is no evidence produced by the claimants to prove that the deceased was working as a driver and was drawing a salary of Rs.7,000/- per month. However, the learned counsel for the claimants submitted that the employer of the deceased was examined by the Tribunal and therefore, the Tribunal has correctly arrived at a sum of Rs.7,000/-. In the absence of any evidence to the contrary and also taking into consideration of the fact that the deceased was 22 years of age at the time of death, even if he is not a driver, Rs.7,000/- per month is a reasonable

monthly income of a able bodied person of that age, at the relevant point of time. Therefore, the ground No.7 of the grounds of appeal is rejected.

7. As regards the future prospects in ground No.8, both the parties agreed that the compensation towards loss of future prospects was awarded at 50% of the income. It is to be awarded as per the judgment of the Hon'ble Supreme Court in case of **National Insurance Company Limited vs Pranay Sethi¹**. According to which, the claimants are entitled to future prospects @ 40% of the established income of the deceased. Further, the petitioner nos.1 and 2 are granted Rs.40,000/- each as filial consortium as per **Magma General Insurance Co. Ltd vs Nanu Ram Alias Chuhru Ram²** with 10% enhancement thereof. The petitioners are also entitled to Rs.15,000/- towards funeral expenses with 10% enhancement thereof and Rs.15,000/- towards loss of estate with 10% enhancement thereon. As per the post-mortem report, the age of the deceased was mentioned as 22 years, hence, the multiplier adopted is '18' as per **Smt Sarla**

¹ 2017 (6) 170 (SC).

² 2018 Law Suit (SC) 904

Varma vs Delhi Transport Coprotation³ and the deceased is an unmarried person, hence, 50% has to be deducted towards his personal expenses.

8. In the light of the above mentioned discussion, the claimants of the deceased are entitled to the following amounts:

S.No.	Head	Compensation awarded
1.	Income	Rs.7,000/- per month
2	Annual Income	Rs.84,000/- (Rs.7,000/- x 12)
3.	Future Prospects	Rs.33,600/- (Rs.84,000 x 40%)
4.	Deductions towards personal expenses (unmarried)	Rs.58,800/- (Rs.84,000 + Rs.33,600 x 50%)
5.	Total Income	Rs.58,800/-
6.	Multiplier	18
7.	Loss of dependency	Rs.10,58,400/- (Rs.58,800/- x 18)
8.	Loss of filial consortium – <i>Magma General Insurance Co.Ltd Vs.Nanu Ram Alias Chuhru Ram – 2018 Law Suit (SC) 904</i>	Rs.88,000/- (Rs.40,000/- + 10% thereof to the parents of the deceased)
9.	Loss of Estate	Rs.16,500/- (Rs.15,000/- + 10% thereof)

³ 2009 (6) SCC 121

10.	Funeral expenses	Rs.16,500/- (Rs.15000/- + 10% thereof)
	Total	Rs.11,79,400/-

9. In the result, this MACMA is partly allowed decreasing the compensation awarded by the tribunal from Rs.11,89,000/- to Rs.11,79,400/- (Rupees Eleven lakhs Seventy nine thousand and four hundred only) with costs and interest thereon at 7.5% per annum from the date of the claim petition till the date of realisation against the respondent Nos.1 and 2 jointly and severally, subject to payment of deficit court fee on the compensation amount of Rs.1,79,400/- (Rs.11,79,400-10,00,000/-). The respondents shall deposit the compensation amount within a period of 90 days from the date of receipt of a copy of this order. On such deposit being made, the appellants are permitted to withdraw the same without furnishing any security in the following proportion:

Appellant No.1 Rs. 6,29,000/-

Appellant No.2 Rs. 5,50,000/-

10. The Motor Accidents Civil Miscellaneous Appeal is accordingly partly allowed. No order as to costs in this appeal.

11. Pending miscellaneous petitions, if any, in this MACMA shall stand closed.

JUSTICE P.MADHAVI DEVI

Date: 16.06.2022.

Krl



THE HONOURABLE SMT JUSTICE P. MADHAVI DEVI

M.A.C.M.A. No.328 of 2017

Date:16.06.2022

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