THE HONOURABLE SMT. JUSTICE M.G. PRIYADARSINI

M.A.C.M.A. No. 1200 of 2014

JUDGMENT :

Dissatisfied with the quantum of compensation awarded by the Chairman, Motor Accidents Claims Tribunal-cum-I Additional District Judge at Nalgonda vide order dated 12.05.2008 in O.P. No. 356 of 2005, the present appeal is filed by the claimants.

2. On 29.01.2005, in the morning hours, while the deceased, Hasanth Kumar, was going on a motorcycle, along with his friend, from Miryalguda to Kodad, at about 8:00 a.m., when they reached Appannapeta Village limits, the offending vehicle i.e., Lorry bearing No. AP 16TU 5541, owned by the respondent No. 1, insured with respondent No. 2, being driven by its driver at high speed in a rash and negligent manner, dashed the motorcycle. As a result, the deceased fell down, received grievous injuries and died on the spot. According to the claimants, the deceased was 20 years, studying Degree II-Year, doing private job and earning Rs.5,000/- per month. Therefore, they laid the claim for Rs.10.00 lakhs towards compensation against the respondents.

3. While the respondent No. 1, owner of the crime vehicle remained ex parte, the respondent No. 2, insurance company, contested the claim petition. The learned Tribunal, considering the

claim of the appellants, counter filed by the Insurance Company and on evaluation of oral and documentary evidence, allowed the O.P. in part, awarding a total compensation of Rs.1,68,000/- along with costs and interest @ 7.5% per annum from the date of petition till the date of realization, to be paid by the respondents jointly and severally.

4. Heard the learned counsel for the appellants and the learned Standing Counsel for the Insurance Company, respondent No. 2. Perused the material available on record.

5. In this appeal, the learned counsel for the appellants-cclaimants has argued that the claimants, in order to substantiate their claim that the deceased was studying Engineering Degree II-Year, have filed Ex.A.7, the marks memo of deceased for the Degree I-Year apart from marking Ex.A.6, Class-X marks memo of deceased. They have also asserted that the deceased was earning Rs.5,000/- per month by doing private works. But, as there was no evidence to prove the same, the tribunal has fixed the annual income of the deceased at Rs.15,000/- which is meagre and needs enhancement. Further, relying on the decision of the Apex Court reported in **National Insurance Company Limited Vs. Pranay Sethi and others**[1], the learned counsel has contended that to the assessed

[1] 2017 ACJ 2700

income of the deceased, 40% ought to have been added towards future prospects. Even the amount granted under conventional heads is too meagre and needs enhancement as per the decision in **Pranay Sethi** (supra). It is contended that the multiplier applied by the tribunal basing on the age of the mother of the deceased is erroneous and considering the age of the deceased, the appropriate multiplier is '18' as per the decision of the Apex Court in ***Sarla Verma v. Delhi Transport Corporation***[2]. It is contended that as the claimants have lost their unmarried son, the claimants, being the parents of the deceased, are entitled to Rs.40,000/- each towards filial consortium as per the decision of the Apex Court in ***Magma General Insurance Company Limited v. Nanu Ram @ Chuhru Ram and others***[3]. Therefore, the learned counsel seeks enhancement of compensation awarded by the learned Tribunal.

6. On the other hand, the learned Standing Counsel for the Insurance Company, respondent No. 2, has contended that as the deceased was only an Engineering student, the learned Tribunal has adequately granted the compensation and the same needs no interference by this Court.

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[2] 2009 ACJ 1298 (SC)
[3] (2018) 18 SCC 130

7. There is no dispute with regard to the manner of the accident and the rash and negligent driving of the offending vehicle by its driver in causing the accident on 29.01.2005 that resulted in the death of the deceased. As seen from the record, the claimants-appellants by marking Ex.A.7, had claimed that the deceased was studying Engineering Degree II-Year. They also contended that the deceased was doing private job and earning Rs.5,000/- per month. However, they have not filed any proof nor examined anybody in this regard. Considering the age of the deceased, the tribunal has fixed the annual income of the deceased at Rs.15,000/- and after deducting 1/3rd towards personal expenses of the deceased therefrom and by adopting the multiplier '15' relying on the age of mother of the deceased, the tribunal has awarded the loss of dependency at Rs.1,50,000/-. This Court is of the view that since the deceased was the student of Engineering II-Year, after completion of the Course, he would have earned a considerable income by getting decent placement. Therefore, considering Ex.A.7, this Court is inclined to fix the monthly income of the deceased at Rs.6,000/-. Since the deceased was 20 years, as per the decision of the Apex Court in **Pranay Sethi** (supra), towards future prospects, 40% to the actual income of the deceased needs to be added. Hence, the future income of the deceased would be Rs.8,400/- per month (Rs.6,000 + Rs.2,400 being 40% thereof). As the deceased was bachelor, after

deducting 50% therefrom towards personal expenses of the deceased, the net monthly future income of the deceased is Rs.4,200/-. As per the decision of the Apex Court in **Smt. Sarla Varma v. Delhi Transport Corporation and another**[4], considering the age of the deceased as 20 years, the appropriate multiplier is '18'. Therefore, taking the same into consideration, the total loss of dependency of the appellants comes to Rs.9,07,200/-. Thus, under the head of loss of dependency, the compensation is enhanced to Rs.9,07,200/-, as against Rs.1,50,000/- awarded by the Tribunal. In addition thereto, under the conventional heads, as against the amount of Rs.18,000/- awarded by the Tribunal, the claimants are granted Rs.33,000/- as per the decision of the Apex Court in **Pranay Sethi** (supra). That apart, as per the decision of the Apex Court in ***Nanu Ram @ Chuhru Ram*** (supra), the claimants, being the parents of the deceased, are granted Rs.80,000/- towards filial consortium. Thus, in all, the compensation is enhanced to Rs.10,20,200/-, as against Rs.1,68,000/- awarded by the Tribunal.

8. In the result, the M.A.C.M.A. is allowed by enhancing the compensation amount awarded by the Tribunal from Rs.1,68,000/- to Rs.10,20,200/-. The enhanced amount shall carry interest at 7.5% per annum from the date of petition till the date of realization, to be payable by the respondents jointly and severally.

[4] 2009 (6) SCC 121

Time for depositing the amount is two months from the date of receipt of a copy of this order. The amount of compensation shall be apportioned between the appellants-claimants in the ratio as ordered by the Tribunal. On deposit of the amount, the claimants are entitled to withdraw the said amount. The claimants shall pay deficit Court fee on the enhanced compensation. There shall be no order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

JUSTICE M.G. PRIYADARSINI

Date: 27.12.2022
tsr

THE HONOURABLE SMT. JUSTICE M.G. PRIYADARSINI

M.A.C.M.A. No. 1200 of 2014

DATE: -12-2022