

HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

M.A.C.M.A. No.414 of 2019

JUDGMENT:

Not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal-cum-Chief Judge, City Civil Court, Hyderabad, in M.V.O.P. No.1661 of 2014 dated 23.12.2017, the present appeal is filed by the claimants seeking enhancement of compensation.

2. For the sake of convenience, the parties have been referred to as arrayed before the Tribunal.

3. According to the petitioners, on 19-07-2013 at about 13.00 hours the deceased Mohd.Sadak Khureshi was proceeding on motorcycle bearing No. AP.25.K.1800 and when he reached at Mambojipally village, at that time RTC hired bus bearing No. AP.23.X.0382 came in rash and negligent manner with high speed and dashed his motorcycle, as a result, he sustained grievous injuries and immediately he was shifted to Medak Government Hospital and from there to Gandhi Hospital, but he died on 20-07-2013 while undergoing

treatment. Hence the claimants seeking compensation of Rs.25,00,000/- with interest @ 12% per annum.

4. Respondent No.1 filed counter admitting his ownership of the offending vehicle and further contended that the offending vehicle was insured with the respondent No.3-Insurance Company and prays to dismiss the petition.

5. Respondent No.2-Andhra Pradesh State Road Transport Corporation filed counter disputing the manner of accident and contended that the respondent Nos.1 and 3 being the owner and insurer of the offending vehicle are liable to pay compensation and prays to dismiss the petition.

6. Respondent No.3-Insurance Company filed counter disputing the manner of accident, age, avocation and income of the deceased. It is further contended that the claim is exorbitant and sought for dismissal of the claim petition.

7. In view of the above pleadings, the Tribunal raised the following issues:

- 1) Whether the pleaded accident had occurred resulting in death of deceased Mohd. Sadak

Khureshi due to rash and negligent driving of RTC bus bearing No. AP.23.X.382 by its driver?

- 2) Whether the petitioners are entitled to any compensation and, if so, at what quantum and what is the liability of the respondents?
- 3) To what relief?

8. In order to prove the issues, PWs.1 to 3 were examined and got marked Exs.A-1 to A-5. On behalf of respondents, no witnesses were examined, however, copy of insurance policy was marked as Ex.B1.

9. On considering the oral and documentary evidence on record, the Tribunal has awarded an amount of Rs.12,14,000/- towards compensation to the appellants-claimants against the respondent Nos.1 to 3 jointly and severally, along with proportionate costs and interest @ 6% per annum from the date of petition till realization.

10. Heard the learned counsel for the appellants-claimants, learned Standing Counsel for the respondent No.2 and the learned Standing Counsel for the respondent No.3-Insurance Company. Perused the material available on record.

11. The learned counsel for the appellants-claimants has submitted that although the claimants, by way of evidence of P.Ws.1 to 3 and Exs.A.1 to A.5, established the fact that the death of the deceased-Mohd.Sadak Khureshi was caused in a motor accident, the Tribunal awarded meager amount.

12. The learned Standing Counsel appearing on behalf of respondent No.2 and 3 sought to sustain the impugned award of the Tribunal contending that the learned Tribunal after considering all aspects has awarded reasonable compensation and the same needs no interference by this Court.

13. Admittedly, there is no dispute with regard to the manner of accident. However, on evaluating the evidence of PWs.1 and 2 coupled with documentary evidence available on record, the Tribunal has rightly held that the accident took place due to the rash and negligent driving of the offending vehicle by its driver. Then the only dispute in the present appeal is with regard to the quantum of compensation.

14. Coming to the quantum of compensation, according to the petitioners, the deceased was Butcher and was getting Rs.15,000/- per month and contributing the same to his family. PW-3, employer of the deceased also stated that he is running a beef shop since last 20 years with three workers along with the deceased and he was paying Rs.15,000/- per month. However, as there is no evidence was adduced to prove the avocation and income of the deceased, the Tribunal had rightly taken the income of the deceased at Rs.5,000/- and added 40% of his income towards future prospects in light of the principles laid down by the Apex Court in ***National Insurance Company Limited Vs. Pranay Sethi and others***¹, and since the deceased left as many as five persons as the dependants, 1/4th of his income is deducted towards his personal and living expenses and awarded an amount of **Rs.11,34,000/-** towards loss of dependency. In addition thereto, under the conventional heads, the claimants are granted **Rs.77,000/-** as per the decision of the Apex Court in **Pranay Sethi** (supra). Further the petitioner Nos.2 and 3 who are minor children of

¹ 2017 ACJ 2700

the deceased are entitled for **Rs.50,000/- each** as filial consortium as per **Magma General Insurance Company Limited v Nanu Ram alias Chuhru Ram²**. Thus, in all, the compensation is awarded as follows:

Sl.No.	Description	Amount awarded
1.	Loss of dependency (Rs.63,000 x 18 =Rs.11,34,000/-)	Rs.11,34,000-00
2.	Conventional heads	Rs. 77,000-00
3.	Filial consortium	Rs.1,00,000-00
	Total:	Rs.13,11,000-00

15. With regard to the liability, respondent No.1 is owner of the bus, who hired the bus to respondent No.2-Andhra Pradesh State Road Transport Corporation, and respondent No.3 is insurer of the offending vehicle. Further Ex.B-1 insurance policy was in force as on the date of accident. Therefore, the tribunal rightly held that the respondent Nos.1 to 3 is jointly and severally liable to pay compensation to the petitioners.

16. In the result, the M.A.C.M.A. is partly allowed by enhancing the compensation amount awarded by the Tribunal from Rs.12,14,000/- to **Rs.13,11,000-00**. The enhanced amount shall carry interest at 7.5% p.a. from the date of this

² (2018) 18 SCC 130

order till the date of realization, to be payable by the respondent Nos.1 to 3 jointly and severally. The amount of compensation shall be apportioned among the appellants-claimants in the ratio as ordered by the Tribunal. The amount shall be deposited within a period of one month from the date of receipt of a copy of this order. On such deposit, the claimants are entitled to withdraw the amount. There shall be no order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

M.G.PRIYADARSINI,J

28.10.2022
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