HONOURABLE SRI JUSTICE N. TUKARAMJI

MACMA.No.1175 of 2013

JUDGMENT:

The claim petitioners preferred this appeal seeking enhancement of the compensation awarded in the decree and order dated 01.03.2013 in M.V.O.P.No.1603 of 2011 passed by the Motor Vehicle Accidents Claims Tribunal-cum-Additional Chief Judge, Fast Track Court, City Civil Court at Hyderabad.

2. The parents/appellant of the K.Srikanth/deceased who died in motor accident on 03.03.2011 filed the claim petition for compensation of Rs. 10,00,000/-.

3. The petitioners case in brief is that, on 03.03.2011, while K.Srikanth/deceased was proceeding in an motorcycle bearing No.AP-10-AU-2985 along with one pillion rider. At Maruthinagar, Tirumalgiri, Secunderabad a lorry bearing No.AP 11 U 6093 driven by its driver in rash and negligent manner struck the motor cycle from the opposite direction and caused his death. Thus the claim petition. The Tribunal on considering the merits recorded finding that the accident

occured due to the negligent driving of the lorry and awarded Rs.2,80,500/- with interest of 6% per annum against the owner and insurer of the lorry/respondent No.2

4. Sri C.Mohan Prakash, learned counsel for the appellants in appeal would contended that that the Tribunal has failed to consider that the deceased was a bright student and was earning Rs.8,000/- per month as mechanic and this aspect was proved by examining the employer/PW3 and the salary certificate/Ex-A6. That apart the future prospect of the deceased was not taken into account and inadequate amounts were granted under the conventional heads. Thus prayed for re-assessment and to grant just compensation.

5. Inspite of the due notice, the respondents choose to remain silent.

The point arises for determining is

a) whether the compensation awarded to the petitioners is justified and proper?

6. As per the learned counsel for the appellants, K.Srikanth/deceased was aged about 20 years and was pursuing his intermediate and also by working as mechanic in M/s. New India Motor Works was earing Rs.8,000/- per month.

7. In the absence of any specific document, by relying on the documents prepared by the investigating agencies i.e., Ex-A4/PME report and Ex-A3/inquest report the age of the Srikanth/deceased can be believed as 20 years.

8. To prove the occupation of Srikanth/deceased, the petitioners filed the Ex-A11/Hall ticket of Intermediate IInd year. The entries therein are indicating Srikanth/deceased was regular student of Intermediate in CEC Group. Further, it appears Ex-A9/receipt issued by SBTET for CEEP; Ex-A10/Rank card issued by SBTET, to demonstrate the technical qualification. The Ex-A6/ salary certificate said to have been issued by PW3 is on letter-head and in the oral evidence of PW3, in cross-examination admitted that he has not filed any receipt or any other record to prove that Srikanth/deceased had worked in his office. The Tribunal

taking note of these aspects, concluded that Srikanth/deceased was student, and this finding is found reasonable. Therefore, considering the qualification and earning ability at the age of deceased and the wages of manual labour during relevant period instead of considering the deceased as non earning member fixing monthly income notionally at Rs.3,000/- is found appropriate.

9. Further, the Hon'ble Supreme Court in the dictum of **National Insurance Company Ltd. vs. Pranay Sethi and others.**[1] held that in computing the loss of dependency the future prospects of income of a self-employed shall also be included. Correspondingly, considering the age of the deceased, 40% of his income was included as future prospects. Further, as the deceased is bachelor, by relying on the directives in the authority of the Hon'ble Apex Court in **Sarla Verma & Ors Vs Delhi Transport Corp. & Anr** [2] half of the total income shall be deducted towards the personal expenses. Consequently, the annual contribution of

[1] (2017) 16 SCC 860
[2] ACJ 2013 Page 1409

the deceased to the petitioners would be Rs.25,200/- per annum and this sum, if multiplied with relevant multiplier to the age of the deceased i.e., 18, the total comes to Rs.4,53,600/- (Rs.25,200/- x 18). The petitioners are entitled to this amount for 'loss of dependency'.

10. In addition, the petitioners are also entitled for compensation under the conventional heads, viz., Rs.15,000 towards Loss of Estate and Rs.15,000/- towards funeral charges. The Hon'ble Supreme Court in the decision between **United India Insurance Co. Ltd. vs. Satinder Kaur @ Satwinder Kaur and others**[3] adjudged that the amount of consortium shall be awarded to the parents towards 'filial consortium' for the loss of their grown-up children, to compensate their agony, love and affection, care and companionship of deceased children. Correspondingly, the petitioners 1 and 2, who are the parents of the deceased, are entitled for Rs.40,000/- each towards filial consortium.

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[3] Civil Appeal No.2705 of 2020, dt.30.06.2020

11. Thus, the petitioners are eligible for the compensation, as follows :

DESCRIPTION	AMOUNT (Rs.)
Loss of Dependency	4,53,600.00
Loss of Estate	15,000.00
Funeral Charges	15,000.00
Filial Consortium to petitioners 1 and 2 appellant	80,000.00
TOTAL	**5,63,600.00**

12. Consequently, the appeal is disposed of in the following terms:

(i) The petitioners are awarded Rs.5,63,600/- (Rupees five lakhs, sixty three thousand six hundred only) with interest at 7.5% per annum and proportionate cost from the date of petition till realization.

ii) the respondents are directed to deposit the awarded amount with interest within one month from the date of receipt of a copy of this judgment;

(iii) the apportionment among the petitioners shall be in terms of the Tribunal Award.

(iv) On deposit of the awarded amount, the petitioners are permitted to withdraw entire amount, as per the apportionment.

As a sequel, miscellaneous petitions, pending if any, shall stand closed.

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N.TUKARAMJI, J

Date: 22.07.2022
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