HONOURABLE SRI JUSTICE N. TUKARAMJI

M.A.C.M.A.No.700 of 2013

JUDGMENT:

Heard Sri T. Vishwarup Chary, learned counsel for the appellants. None appeared for the respondents.

2. The claim petitioners preferred this appeal seeking enhancement of compensation granted in the decree and award dated 01.12.2012 in O.P.No.2554 of 2010 passed by the Chairman, Motor Accidents Claims Tribunal-cum-X Additional Chief Judge, City Civil Court, at Hyderabad.

3. The wife and sons of P.Ramakrishna Reddy/deceased who died in motor accident dated 18.10.2008 filed the claim petition.

4. The appellants/claim petitioners' (for short 'the petitioners') case in brief is that on 18.10.2008 while P.Ramakrishna Reddy/deceased was proceeding on motorcycle near Maddurumetta, one tractor bearing registration No. AP-04-M-2212 (for short 'the tractor') driven by its driver in rash and negligent manner dashed

the motorcycle and caused his instantaneous death. Thereupon, pleading loss of dependency, the claim petitioners filed petition for compensation of Rs.15 lakhs.

5. The Tribunal after considering the material and evidence on record held that the accident had occurred due to the rash and negligent driving of the tractor and awarded Rs.6,10,000/- with interest at 7.5% per annum against the owner and insurer of the tractor/1st and 2nd respondents.

6. Learned counsel for the appellants/petitioners (for short 'the petitioners') in this appeal contended that though the petitioners placed Ex.A-6/the income certificate issued by the Tahsildar and the oral evidence of the Mandal Revenue Insepctor/PW-3 to prove the income, erroneously taken the monthly income of the deceased at Rs.4,500/- on notional basis. In this regard, the petitioners' counsel relied on the authority of High Court of Judicature, Andhra Pradesh at Hyderabad between *United India Insurance Company Limited v. K.*

Swarupa Rani and others[1] to point out, where the salary particulars mentioned in the document are not denied, the contents therein were relied for assessment of compensation. Further, contended that the future prospects were not accounted and inadequate amounts were granted towards conventional heads. Thus, prayed for reassessment and to award just compensation.

7. In spite of due notice, the respondents chose to remain silent.

8. In this position, the point arises for determination is:

> *"Whether the compensation awarded to the petitioners by the tribunal is just and proper?"*

9. In regard to quantum of compensation, the petitioners pleaded that P.Ramakrishna Reddy/deceased was aged about 40 years and was earning Rs.60,000/- as annual income. To prove the age, no specific document is placed. However, the Tribunal by considering the

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[1] 2013(1) ALD 369

entries in Ex.A-3/the post mortem report and Ex.A-2/inquest report believed the age of the deceased as 40 years. As the course adopted in determining the fact is reasonable, this finding is confirmed.

10. In regard to income, though the petitioners claimed monthly income at Rs.60,000/- and listed Ex.A-6/income certificate issued by the Tahsildar on record. However, in cross examinationi it is elicited that the sources of income were not mentioned in the certificate. The Mandal Revenue Inspector/PW-3 affirmed that the Ex.A-6/income certificate had been issued by the Tahsildar. The suggestions that Ex.A-6/income certificate was not true and the Mandal Revenue Inspector/PW-3 is not competent to speak regarding the document were denied.

11. The evidence of PW-3 had authenticated the issuance of Ex.A-6/income certificate. Except the suggestions that the sources of income are not

mentioned in the certificate and the certificate/ex.A-6 is not true, nothing material had been made out to discredit the Ex.A-6/certificate more so when the Mandal Revenue Officer is competent to issue income certificate, particularly, with regard to agricultural income. Thus negativing the Ex.A-6/income certificate issued by the competent authority would not be justified. In this view, the finding of the tribunal on this aspect is unfounded, that being so it would be proper to consider the annual income of the deceased as certified in Ex.A-6 at Rs.1,50,000/- for assessment of compensation.

12. It is settled position that while assessing the compensation in the cases of death, the future prospects of self employed shall be taken into account as annunciated in the dictum of **National Insurance Company Limited Vs. Pranay Sethi**[2]. Having regard to the age of the deceased, 40% of the income has to be added as future prospects. Further considering the number of dependants and the directives in the dictum of

[2] (2017) 16 SCC 680

Sarla Verma & others v. Delhi Transport Corporation and another[3], 1/3rd of the income has to be deducted towards personal expenditure. Thus, the annual contribution of the deceased to the petitioners would be Rs.1,40,000/-. If this amount is multiplied with the relevant multiplier i.e. 15, the total would come to Rs.21,00,000/-. The petitioners are entitled to this amount under the head of 'Loss of Dependency'.

13. In addition, the petitioners are also entitled for compensation under 'conventional heads' as prescribed in the dictum of **Pranay Sethi** (supra), i.e., Rs.15,000/- towards loss of Estate; Rs.15,000/- towards funeral charges; and Rs.40,000/- to the 1st petitioner towards spousal consortium.

14. Further, the Hon'ble Supreme Court, by reiterating the comprehensive interpretation of 'consortium' given in the authority of **Magma General Insurance co. Ltd.**

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[3] (2009) 6 SCC 121

vs. Nanu Ram & ors.[4] in the authority between **United India Insurance Co. Ltd. vs. Satinder Kaur @ Satwinder Kaur and others**[5] fortified that the amounts for loss of consortium shall be awarded to the children who lose the care and protection of their parents as 'parental consortium'. Accordingly, Rs.40,000/- each is granted to the 2nd and 3rd petitioners as parental consortium.

15. Therefore, appellants/petitioners are eligible for the compensation in the following terms, viz.

(i)	Loss of dependency	:	Rs.21,00,000.00
(ii)	Loss of Estate	:	Rs. 15,000.00
(iii)	Funeral expenses	:	Rs. 15,000.00
(iv)	Spousal Consortium to 1st petitioner	:	Rs. 40,000.00
(v)	Parental Consortium to 2nd & 3rd petitioners Rs.40,000/- each	:	Rs. 80,000.00
			TOTAL:Rs.22,50,000.00

[4] (2018) 18 SCC 130
[5] (2020) 9 SCC 644

16. The Section 168 of the Motor Vehicles Act casts statutory duty on the Court to award just and reasonable compensation. Further the Hon'ble Apex Court in **Nagappa vs. Gurudayal Singh & others**[6], reinforced that the Courts are empowered to award just compensation, even if it is higher than the claim in the petition. Thusly the above arrived amount is awarded to the petitioners as just and reasonable compensation.

17. Resultantly, the appeal is allowed and the impugned Award is modified, as under:

(i) the appellants/petitioners are awarded compensation of Rs.22,50,000/- (Rupees twenty two lakhs fifty thousand only) with interest at 7.5% per annum from the date of petition till realization payable by the 1st and 2nd respondents jointly and severally;

(ii) the 1st and 2nd respondents are directed to deposit the awarded amount with interest within

[6] (2003) 2 SCC 274

one (1) month from the date of receipt of copy of the judgment;

(iii) the apportionment of the awarded amounts among the petitioners shall be in terms of the tribunal's award.

(iv) on deposit, the petitioners are permitted to withdraw the entire amount, as per the apportionment in their favour.

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

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N. TUKARAMJI, J

Date:23.09.2022
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