

HONOURABLE SRI JUSTICE N. TUKARAMJI**MACMA No.2761 of 2013****JUDGMENT:**

This appeal is filed by the appellants/petitioners seeking enhancement of compensation granted in the decree and award dated 14.03.2013 in O.P.No.1294 of 2009 passed by the Chairman, Motor Vehicle Accidents Claims Tribunal – cum – IV Additional District Judge, at Ranga Reddy District.

2. The wife, children and mother of Sri N.Pandu/deceased who died in a motor vehicle accident dated 10.12.2009 filed the claim petition seeking compensation of Rs.10,00,000/- under Section 166 of the Motor Vehicles Act, 1988 (for short 'the MV Act').

3. The brief facts of the case are that on 10.12.2009 while Pandu/deceased along with others were travelling in Tata Sumo Car bearing registration No.AP-9-AP-5244 (for short 'the car') near Katta Maisamma temple on NH9, a lorry bearing registration No. AKA-39-5714 (for

short 'the lorry') driven by its driver in rash and negligent manner, dashed the car which resulted in fatal injuries and caused his instantaneous death. Thus the claim petition.

4. The tribunal on analyzing the evidence held that the accident occurred due to the rash and negligent driving of the car and though arrived at compensation of Rs.14,25,480/- restricted the same to the claimed amount of Rs.10,00,000/- and granted interest at 7.5% per annum against the owner and insurer of the car/1st and 2nd respondents.

5. In appeal, the appellants/claim petitioners (hereinafter 'the petitioners') contended that the tribunal ought to have considered the future prospects of the deceased in assessing the compensation and also would have granted adequate amounts under 'conventional heads'. Whatsoever, the tribunal should not have restricted the compensation of Rs.10,00,000/- as the

claimants are entitled for just compensation. Thus, prayed for reassessment and to grant just compensation.

6. Learned counsel for the second respondent/insurer (hereinafter 'the respondent') pleaded that the tribunal had leniently considered the case of the petitioners and appropriate amount is awarded as compensation. Thus, prayed for dismissal of the appeal.

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

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

8. The petitioners asserted that Pandu/deceased was aged 45 years and as conductor in A.P.S.R.T.C., Hyderabad II Depot, used to earn monthly salary of Rs.12,000/-. The tribunal basing on the entries in Ex.A-4/post mortem report, the age of the deceased at relevant time has been taken as 45 years and by the evidence of PW-3, Ex:A-6/salary certificate and A-7/pay slip, the monthly income of the deceased has been taken

at Rs.10,606/-. It is pertinent to note that the petitioners and the respondent/insurer have not disputed these findings recorded by the tribunal, these conclusions are affirmed.

9. The Hon'ble Apex Court in the dictum of **National Insurance Company Limited Vs. Pranay Sethi**¹ held that the future prospects of income of the deceased/employee shall be included in determining the compensation. Thus, considering the age of the deceased, 30% of the annual income has to be added towards future prospects. The 1st petitioner is wife, the 2nd to 4th petitioners are children, and 5th petitioner is the mother of the deceased, so by relying on the directives in the authority of Hon'ble Apex Court in **Sarla Verma & others v. Delhi Transport Corporation and another**², 1/4th of the total income has to be deducted towards personal consumption. Thus, the annual contribution of Pandu/deceased to the petitioners would be of

¹ (2017) 16 SCC 680

² (2009) 6 SCC 121

Rs.1,24,083/-. This amount, if multiplied with the multiplier applicable to the age of the deceased i.e. 14, it would come to Rs.17,37,162/-. The petitioners are entitled to this amount under the head '**Loss of Dependency**'.

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

11. Further, the Hon'ble Supreme Court, by reiterating the comprehensive interpretation of 'consortium' given in the authority of **Magma General Insurance co. Ltd. vs. Nanu Ram & ors.**³ in the authority between **United India Insurance Co. Ltd. vs. Satinder Kaur @ Satwinder Kaur and others**⁴ fortified that the amounts for loss of consortium shall be awarded to the children

³ (2018) 18 SCC 130

⁴ Civil Appeal No.2705 of 2020, dt.30.06.2020

who lose the care and protection of their parents as 'parental consortium' and to the parents as, 'filial consortium' for the loss of their grown-up children, to compensate their agony, love and affection, care and companionship of deceased children.

12. Accordingly, Rs.40,000/- each is awarded to 2nd, 3rd and 4th petitioners towards parental consortium, totalling Rs.1,20,000/- and Rs.40,000/- is awarded to 5th petitioner towards filial consortium.

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

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|-------|---|---|------------------|
| (i) | Loss of dependency | : | Rs. 17,37,162.00 |
| (ii) | Loss of Estate | : | Rs. 15,000.00 |
| (iii) | Funeral expenses | : | Rs. 15,000.00 |
| (iv) | Spousal Consortium to
1 st petitioner | : | Rs. 40,000.00 |
| (v) | Parental Consortium to
2 nd to 4 th petitioners@
Rs.40,000/- each | : | Rs. 1,20,000.00 |

(vi) Filial Consortium to 5th
Petitioner. : Rs. 40,000.00

TOTAL: Rs.19,67,162.00

14. 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**⁵, reinforced the power of the Courts in awarding reasonable compensation, even if it is higher than the claimed. Accordingly, the above arrived amount is awarded to the petitioners as just and reasonable compensation.

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

(i) the appellants / petitioners are awarded compensation of Rs.19,67,162/- (Rupees nineteen lakhs sixty seven thousand one hundred sixty two only) with interest at 7.5% per annum with costs from the date of petition till realization;

⁵ (2003) 2 SCC 274

(ii) the 1st and 2nd respondents are jointly and severally liable to pay the compensation;

(iii) the respondents are directed to deposit the awarded amount with interest within one (1) month from the date of receipt of a copy of this judgment;

(iv) on deposit of enhanced amount with interest, the appellants/petitioners are permitted to withdraw entire amounts as apportioned by the Tribunal;

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

N. TUKARAMJI, J

Date:25.08.2022
ccm