

THE HON'BLE SRI JUSTICE N.TUKARAMJI

M.A.C.M.A. No.1457 of 2013

JUDGMENT:

1. The claimants preferred this appeal, being not satisfied with the quantum of compensation awarded in the decree and order dated 05.03.2013 in O.P.No.264 of 2011, passed by the Chairman, Motor Accidents Claims Tribunal-cum-I Additional District Judge at Nalgonda.

2. Brief facts of the petitioner's case is that on 14.03.2011 at about 7:30 p.m Ramulu/deceased got down from an auto and while crossing road near Ashoka Hotel, Aitipamula Village, a vehicle bearing Engine No.ABE 1411512 and Chasis No.MB1PBEYC1BEYE 7754 driven in a rash and negligent manner and dashed him and caused his instantaneous death. There upon pleading loss of dependency filed claim petition seeking compensation of Rs.5,00,000/-.

3. The Tribunal after considering the evidence on record, awarded compensation of Rs.3,46,800/- (Rupees Three lakhs forty six thousand eight hundred only) with 6%

interest per annum and held that the 1st and 2nd respondents are jointly and severally liable to pay the compensation amount.

4. Aggrieved by the awarded quantum of compensation, the Appellants/petitioners (hereafter 'the petitioners') in this appeal contested that though the petitioners got examined, the employer who deposed that the salary of the deceased was at Rs.5,000/- (Rupees Five thousand only) per month, the Tribunal erroneously rejected the same and notionally taken monthly income at Rs.3,600/- (Rupees Three thousand six hundred only) without any basis. That apart, the Tribunal failed to consider the future prospects and granted inadequate amounts under the conventional heads.

5. The 2nd respondent/insurer (hereafter 'the respondent') contended that the Tribunal has rightly assessed the compensation and that the petitioner could not make out any tenable ground for assessment of compensation.

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

Whether the compensation awarded by the Tribunal is just and proper?

7. As per the claim petitioners by the date of accident Ramulu/deceased was aged about 50 years and working as a supplier in a hotel, used to earn Rs.5,000/- per month.

8. No document was placed to prove the age and as the occupation of the deceased is part of unorganized sector, no document can be expected. However, having regard to the entries in Inquest Report/Ex.A2 and Post Mortem Report/Ex.A3, the Tribunal had believed the age of the deceased at 55 years. In absence of any other material, deciding the age basing on the certificate of the doctor during post mortem examination is found proper and acceptable. Further, considering the claim of the petitioners and the corroborating testimony of the employer of the deceased/P.W.2 and as there is no dispute regarding the occupation of the deceased, discarding the evidence without reason found unacceptable in addition as the income claimed is passable allotting Rs.5,000/- as monthly income of the deceased is found proper.

9. The Hon'ble Supreme Court in ***National Insurance Company Ltd. vs. Pranay Sethi and others***,¹ held that while computing the compensation for the death, future prospects of the income shall also be included. As the deceased was 55 years old by the date of accident with self employment category, 10% of the income has to be added towards prospects. Further, as per the directions of the hon'ble Apex Court in the diction of ***Sarla Verma & Ors Vs Delhi Transport Corp. & Anr*** ², considering the number of the dependants 1/3rd of the income has to be deducted towards personal consumption. In fact the annual contribution of the deceased to the petitioners would be Rs.44,000/-.

10. The tribunal had applied the multiplier in the Second Schedule. However, as the claim petition is on contest under Section 166 of the M.V. Act, the schedule of multiplier enunciated in the dictum of Hon'ble Supreme Court in ***Sarla Verma*** (2 supra) fortified in the authority of ***Pranay Sethi*** (1 supra) is applicable. Thus the suitable multiplier

¹ (2017) 16 SCC 860

² ACJ 2013 Page 1409

is '11'. Correspondingly, if the above arrived multiplicand is multiplied with the relevant multiplier the value comes to Rs.4,84,000/- (Rs.44,000/- x 11). The petitioners are entitled for this amount under the head of 'Loss of Dependency'.

11. Besides, 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. The 1st petitioner is entitled for Rs.40,000/- towards spousal consortium and appellant Nos.2 and 3 are entitled for parental consortium at Rs.40,000/- each as per **Magma General Insurance Co. Ltd Vs. Nanu Ram Alias Chuhru Ram**³.

12. Therefore, the appellants are entitled to the following amounts viz.

Sl.No.	Head	Compensation
1.	Loss of dependency	Rs.4,84,000/-
2.	Loss of estate	Rs.15,000/-

³ 2018 Law Suit (SC) 904

3.	Funeral expenses	Rs.15,000/-
4.	Spousal Consortium	Rs.40,000/-
5	Parental consortium	Rs.80,000/-
	Total	Rs.6,34,000/-

13. Further, having regard to the contemplation of the Section 168 of the M.V.Act and the prescriptions in the award of ***Nagappa Vs Guru Dayal Singh***,⁴ higher compensation than the claimed can be awarded if the petitioners are due for such amount. Accordingly, the compensation arrived in the preceding discussion is awarded to the petitioner.

14. In the result, the appeal is allowed in following terms

- 1 The petitioners are awarded compensation of Rs.6,34,000/- (Rupees Six lakhs thirty four thousand only) with interest @ 7.5% per annum from the date of petition till realization.
- 2 The 1st and 2nd respondents are jointly and severally liable to pay the compensation and they are directed to deposit the awarded amount within one month from the date of receipt of copy of this order.
- 3 The apportionment of compensation among the

⁴ (2003) 2 SCC 274

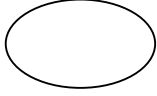
petitioners and the permission to disburse
shall be as directed in the Award.

15. Miscellaneous petitions, if any, pending shall stand closed.

N.TUKARAMJI,J

Date: 29.07.2022.

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THE HONOURABLE SRI JUSTICE N. TUKARAMJI

M.A.C.M.A. No.1457 OF 2013

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