HON'BLE SMT. JUSTICE G. ANUPAMA CHAKRAVARTHY

M.A.C.M.A.No.2768 of 2008

JUDGMENT :

This appeal is arising out of the orders in O.P.No.209 of 2005, dated 24.06.2008 on the file of Motor Accident Claims Tribunal-cum-District Judge, Nizamabad.

2. For the sake of convenience, parties are referred to as arrayed in the O.P.

3. The claimants are the appellants. The O.P. was filed by the claimants under Section 166(1)(c) of the Motor Vehicles Act, claiming compensation of Rs.6,00,000/- on account of the death of the deceased/Mangali Ganesh, in the accident on 06.04.2004 at 1.30 p.m. The said accident occurred while the deceased and others were proceeding in a jeep bearing No.AP-25-U-2927 from Nizamabad to Darjeni Thanda via Bhainsa and when the jeep reached Abhangapatnam, a lorry bearing No.ATA-979, driven by its driver in a rash and negligent manner, dashed against the jeep from opposite side. As a result, the inmates in the jeep sustained

grievous injuries, and the deceased succumbed to injuries while being shifted to hospital.

4. Basing on the complaint of one of the inmates of the jeep i.e. B.Kailash, a case was registered against the driver of the lorry vide Crime No.56 of 2004 for the offences punishable under Sections 304-A and 337 of IPC on the file of Nabipet Police Station. The claimants are the parents and sister of the deceased. It is the specific averment in the claim petition that the deceased was hale and healthy and was earning Rs.10,000/- per month as a Barber and Agriculturist and contributed the same to the family.

5. A detailed counter affidavit was filed by the respondents disputing the age and income of the deceased. It was further contended that there was no negligence on the part of the driver of the lorry.

6. The Tribunal, after considering the oral and documentary evidence on record, granted a compensation of Rs.2,47,000/-.

7. Being aggrieved as to the quantum of compensation awarded by the Tribunal, the claimants have filed this appeal for enhancement of compensation. So, the appreciation of evidence would be with respect to the quantum alone.

8. Heard learned counsel for both the parties and perused the record.

9. It is contended by the learned counsel for the claimants that the Tribunal has not properly considered the income of the deceased and further, the age of the mother of the deceased was considered while applying the multiplier and therefore, it is just and necessary to consider the age and the income of the deceased as Rs.3,000/- per month even in the absence of any documentary evidence, as per the law laid down by the Apex Court and therefore prayed to enhance the compensation.

10. On the other hand, the learned counsel for the respondent-Insurance Company contended that there is no error or irregularity in the orders passed by the Tribunal so as to interfere with the same

and therefore, prayed to dismiss the Appeal confirming the judgment of the Tribunal.

11. Admittedly, the deceased was unmarried person and was aged about 21 years as on the date of accident, as per the inquest and postmortem reports i.e. Exs.A-3 and A-4 respectively. Ex.A-7 is the income certificate issued by the Sarpanch, which shows that the deceased used to earn Rs.8,000/- per month by doing barber work, but the Tribunal has not considered the same, as Sarpanch is not competent to issue income certificate and the income of the deceased was considered as Rs.3,000/- per month even in the absence of any documentary evidence.

12. It is relevant to mention that as per the proposition laid down by the Hon'ble Supreme Court in **Smt.Sarla Verma v. Delhi Transport Corporation & another**[1], the income of a non-earning member can be taken as Rs.3,000/- per month. Therefore, there is no error or irregularity in the orders of the Tribunal while considering the income of the deceased as Rs.3,000/- per month.

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[1] (2009) 6 SCC 121

13. On perusal of the entire evidence on record, there is no dispute as to the manner of the accident which occurred on 06.04.2004. PW-1 is the father of the deceased. The 2nd claimant and the 3rd claimant are the wife and daughter of PW-1 respectively. The Tribunal has taken the age of the mother of the deceased into consideration while calculating the compensation. Ex.A-7 document was discarded/disbelieved by the Tribunal as the Sarpanch was not the competent person, to issue income certificate and considered the income of the deceased as Rs.3,000/- per month and applied the multiplier '8' considering the age of the 2nd claimant i.e. the mother of the deceased as per the II-Schedule of Motor Vehicles Act.

14. As stated supra, the age of the deceased was 21 years and the income of deceased was Rs.3,000/- per month. If 40% future prospects is added, it would come to Rs.4,200/- (Rs.3,000+1,200). As the deceased is an unmarried person, 50% of his earnings have to be deducted towards his personal expenses. Thus, his contribution towards family would come to Rs.2,100/-. As per the judgment of Hon'ble Supreme Court in **Sarla Verma**'s case

(1 supra), the multiplier applicable is ‘18’ for the age group of 15 to 25 years. If the annual income and multiplier ‘18’ are applied, then, the loss of earnings of the deceased would be Rs.4,53,600/- (Rs.2,100 X 12 X 18).

15. As per the judgment of Hon’ble Supreme Court in **National Insurance Co. Ltd. v. Pranay Sethi & others**[2], parents of the deceased are entitled to Rs.40,000/- each towards consortium and Rs.15,000/- towards funeral expenses and another Rs.15,000/- towards loss of estate.

16. Thus, the claimants are entitled to the compensation under the following heads;

1.	Loss of dependency	Rs.4,53,600/-
2.	Funeral expenses	Rs.15,000/-
3.	Consortium (Rs.40,000/- each to the parents of the deceased)	Rs.80,000/-
4.	Loss of estate	Rs.15,000/-
	TOTAL	**Rs.5,63,600 /-**

17. Accordingly, the appeal is disposed of, granting a total compensation of Rs.5,63,600/- with costs and interest at the rate of 7.5% per annum from the date of petition till the date of realisation,

[2] 2017 ACJ 2700

payable by the respondents jointly and severally within one month from the date of receipt of a copy of this order. All the appellants are equally entitled for the said amount and they are permitted to withdraw their respective shares, as the accident occurred in the year 2004.

Pending miscellaneous applications, if any, shall stand closed.

G.ANUPAMA CHAKRAVARTHY, J

Date: 29.11.2022

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