HONOURABLE JUSTICE M.G. PRIYADARSINI

M.A.C.M.A. No. 946 of 2015

JUDGMENT:

Being not satisfied with the quantum of compensation awarded by the Chairman, Motor Accident Claims Tribunal-cum-XIV Additional Chief Judge (Fast Track Court), City Civil Courts, Hyderabad in M.V.O.P. No. 554 of 2011, dated 13.03.2014, the appellants/claimants preferred the present appeal seeking enhancement of the compensation.

The facts, in issue, are as under:

The appellants filed a petition under Section 166 of the Motor Vehicles Act claiming compensation of Rs.10,00,000/- for the death of R. Praveen Kumar (hereinafter referred to as "the deceased"), who died in a road accident that occurred on 17.09.2010. According to the claimants, while the deceased was proceeding on his motorcycle along with his colleague from Rotary towards P.V. Ghat, the offending car bearing No. AP 09BX 8833, owned by respondent No. 1 and insured with respondent No. 2, being driven by its driver in a rash and negligent manner, dashed the motorcycle of the deceased from behind. As a result, the deceased and pillion rider fell down from the motorcycle and the deceased died on the spot. According to the claimants, the deceased was aged 25 years, unmarried, working as Back Office Executive at Jasper Industries Private Limited, Khairtabad, Hyderabad and was earning Rs.10,000/- per month as salary. Therefore, they laid the claim against the respondents for Rs.10.00 lakhs towards compensation under different heads.

Before the tribunal, while the respondent No. 1 remained ex parte, the respondent No. 2, insurance company, resisted the claim by filing counter and denying the manner of accident, age, avocation and income. It is also contended that the compensation claimed is highly excessive and prayed to dismiss the claim-petition.

Considering the claim, counter and the evidence, both oral and documentary brought on record, the tribunal has allowed the O.P. in part awarding a compensation of Rs.9,34,360/- with interest at 7.5% per annum to be paid by both the respondents jointly and severally. Not satisfied with the quantum of compensation awarded, the claimants filed the present appeal.

The only contention of the learned Counsel for the appellants is that as per the principles laid down by the Apex Court in ***National Insurance Company Limited Vs. Pranay Sethi and others***[1], the tribunal ought to have added future prospects at 40% to the established income of the deceased. Therefore, it is argued that the income of the deceased may be taken into consideration reasonably for assessing loss of dependency by adding future prospects and prayed to enhance the compensation.

Per contra, the learned Standing Counsel for the Insurance Company submits that the tribunal has rightly assessed the income of the deceased and has rightly awarded the compensation which needs no interference by this Court.

The finding of the Tribunal with regard to the manner in which the accident took place has become final as the same is not challenged either by the owner or insurer of the vehicle.

The short question that arises for consideration is "*whether the compensation awarded by the Tribunal is just and equitable"?*

[1] 2017 ACJ 2700

The Motor Vehicles Act is beneficial and welfare legislation. The Court is duty-bound and entitled to award "*just compensation*", irrespective of whether any plea in that behalf was raised by the claimants. So far as income of the deceased is concerned, the Tribunal, based on Ex.X2, salary slip, has taken the monthly income of the deceased as Rs.8,420/- after deducting the professional tax.

Coming to the aspect of future prospects, this point has already been considered by the Apex Court in ***Pranay Sethi*** (Supra), and it has been held that the benefit of future prospects cannot be denied to a self-employed person. The Apex Court has further held that where the deceased was below the age of 40 years, an addition of 40% of the established income; where the deceased was between 40 to 50 years, an addition of 25% of the established income; and where the deceased was between 50 to 60 years, an addition of 10%, should be granted towards future prospects. According to the appellants, since the age of deceased, at the time of death, was 25 years, an addition of 40% of the established income should be granted. Thus, by adding 40% to the established income of the deceased, the future monthly income comes to Rs.11,788/- (Rs.5,420/- plus Rs.3,368/- being 40% thereto). Since the deceased was bachelor, after deducting 50% therefrom towards personal expenses of the deceased, the net monthly contribution to the family comes to Rs.5,889/-, which is rounded off to Rs.5,890/-. The annual contribution comes to Rs.70,680/-.

After considering the evidence available on record, the Tribunal has held that the deceased was aged about 25 years at the time of the accident. In view of the judgment of the Apex Court in ***Sarla Verma v. Delhi Transport Corporation***[2]**,** the suitable multiplier would be '18'. Applying multiplier '18', the total loss of dependency would be Rs.12,72,240/- (Rs.70,680/- x 18). Under the conventional heads, the tribunal has awarded Rs.25,000/-, but as per the decision of the ***Pranay Sethi*** (supra), the claimants are entitled to Rs.33,000/- under the conventional heads. Apart from that, as per the decision of the Apex Court in ***Magma General Insurance Company Limited v. Nanu Ram @ Chuhru Ram and others***[3]**,** the claimant No.1 being the mother of the deceased, is granted filial consortium of Rs.40,000/-. Thus, in all, the claimants are granted the compensation of Rs.13,45,240/-.

[2] 2009 ACJ 1298 (SC)
[3] (2018) 18 SCC 130

In the result, the appeal is allowed by enhancing the compensation from Rs.9,34,360/- to Rs.13,45,240/-. The enhanced amount shall carry interest at 7.5% per annum from the date of order passed by the tribunal till the date of realization. The enhanced amount shall be apportioned among the claimants in the same proportion as was ordered by the tribunal. However, the claimants are directed to pay deficit court fee on the enhanced amount. There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE M.G.PRIYADARSINI

20.10.2022
tsr/mnv