**HONOURABLE SRI JUSTICE SAMBASIVA RAO NAIDU**

**M.A.C.M.A.NO.321 of 2022**

**JUDGMENT :**

This Miscellaneous Appeal has been filed by the Insurance Company against the Judgment and order of the learned I Additional District Judge, Khammam in M.V.O.P.No.633 of 2018 dated 06-12-2021. The present appeal is filed by showing the claimants/petitioners in M.V.O.P.No.633 of 2018 as respondents No.1 and 2. The owners of the vehicles involved in the accident are shown as respondents No.3 and 4.

2. As could be seen from the order passed by the learned I Additional District Judge, in M.V.O.P. No.633 of 2018, it seems the said petition was filed by respondents No.1 and 2 herein under Section 166 of M.V. Act seeking compensation of Rs.40 Lakhs for the death of one K.Praveen Kumar on account of a road traffic accident. Respondents No.1 and 2 are parents of said Praveen Kumar, herein after will be referred as deceased and it was their case before the trial Court that on 21-01-2016, the deceased along with his family members engaged a vehicle i.e., TATA ACE Magic bearing No.AP 36TV 1552 to visit Komaravelly Temple and after their worshipping the God at Komaravelly, they returned at 8.00

p.m., on the next day i.e., 22-01-2016. When they reached Rampoor X Roads, the driver of one DCM van bearing No.AP 28TD 7345 drove the van in high speed, in a rash and negligent manner dashed the said TATA ACE Magic resulting the death of deceased Praveen Kumar and two others on the spot and causing injuries to the other passengers of the auto. A complaint was presented before police Rajagopalpet and the same was registered as Crime No.8/2016.

3. Respondents No.1 and 2 have filed M.V.O.P.No.633 of 2018 for compensation of Rs.40 Lakhs. Their claim was resisted by the respondents including the present appellants. The Respondent Insurance Company filed its counter. The Court below framed three issues and during the trial, the respondent No.1/petitioner No.1 was examined as PW.1 and one Singam Vijay Bhaskar was examined as PW.2. Exs.A1 to A17 were marked on behalf of the petitioners. The respondents i.e., the appellant herein and owners of the above referred vehicle did not adduce any oral or documentary evidence.

4. The trial Court having appreciated the oral evidence and documents marked by the respondent/petitioner allowed the petition and awarded a sum of Rs.28,95,000/- with costs and

interest by fixing responsibility on all the respondents including the present appellant.

5. Being aggrieved by the said Judgment, Insurance Company i.e., present appellant filed this appeal on the following grounds.

The Tribunal committed an error while quantification of compensation. The Tribunal did not consider the contributory negligence on the part of the driver of vehicle in which the deceased was travelling. The driver of the said vehicle which is a goods vehicle, used it as a mode of transportation and allowed passengers to travel in the vehicle, thereby, contributed for the cause of accident. The appellant questioned the grant of interest @ 7.5% on the future prospects of the deceased on the ground that they have to deposit the future prospects before the Court and the same will be deposited in lump sum prior to the occurrence of future events. Therefore, awarding interest on the future prospects amounts to grant of double interest on the compensation. The appellant while placing reliance on the Judgment between ***"National Insurance Co. Ltd. Vs. Pranay Sethi & Others"***[1], further claimed that the maximum amount that can be awarded under the head of Non-pecuniary Damages is only

[1] 2017 ACJ 2700

Rs.30,000/- in the case of death of a bachelor but the Court below awarded Rs.80,000/-, thereby the same is liable to be set aside.

6. Therefore, according to the appellant, the main grievance is against the sanction of interest on the future prospects which is supposed to be deposited by the Insurance Company even before the occurrence of future events and about the grant of Rs.80,000/- as non-pecuniary damages instead of Rs.30,000/-.

7. Heard the learned counsel for the appellant and also the learned counsel for the respondents/claimants.

8. Now the point for consideration is :

> Whether the trial Court committed an error by allowing the claim of respondents No.1 and 2/petitioners No.1 and 2 by awarding interest on the future prospects and that the Court below granted excess amount under the head of pecuniary damages, thereby the order to that extent is liable to be set aside?

9. The learned counsel for the appellant has submitted that the Court below having considered all the aspects including the employment and future prospects of the deceased and by following the Judgment of the Apex Court in *Pranay Sethi case* inclined to add 40% of the present income of the deceased as future prospects and having applied correct multiplier awarded interest @ 7.5% on the entire amount including the future

prospects. The learned counsel has further submitted that in the event of appellant depositing the entire amount, it is nothing but depositing the compensation amount including the future prospects even before the actual occurrence of the future events. Therefore, no interest can be awarded on future prospects. He has also argued that as per the orders of Apex Court in Pranay Sethi referred above, maximum amount of Rs.30,000/- can be awarded under non-pecuniary damages for the Court below granted Rs.80,000/-. Therefore, the learned counsel sought for modification of the order. In support of his contention, the learned counsel has relied on a Judgment between the "***Oriental Insurance Company Limited vs. Smt. Champabati Ray & 5 Ors.***[2] The learned counsel has submitted that in this Judgment, the High Court of Gauhati was pleased to observe that no interest can be awarded on future prospects.

10. The learned counsel for respondents No.1 and 2/claim petitioners No.1 and 2 having placed reliance on Judgment between ***"Sidram vs Divisional Manager United Insurance Co., Ltd.,***[3] has submitted that in this Judgment, the Hon'ble Apex Court was pleased to award interest on the medical expenditure,

[2] MACApp.378/2017 of Gauhati HC
[3] 2022 SCC Online SC 1597

therefore, it is quite clear that even though the amount includes future events or future prospects, the same shall carry interest.

11. Even though the appeal is filed on various grounds, the main focus of the appellant is on contributory negligence by the deceased and awarding interest against future prospects. The appellant has claimed that a goods vehicle was used as Transport vehicle and the driver allowed passengers, thereby it amounts to contributory negligence. But the appellant could not place any oral or documentary evidence in support of said claim. Therefore, the said plea is not available to the appellant.

12. The appellant did not dispute the calculations arrived at by the trial Court or towards adding the future prospects based on the Judgment reported in *Pranay Sethi case*. The objection raised by the appellant is about awarding Rs.80,000/- as Non-pecuniary damages. In fact in the Judgment referred by the petitioner in *Pranay Sethi*, the Hon'ble Apex Court was pleased to observe in Para No.60 (VIII) in the following terms :

13. A reasonable figure on conventional heads namely loss of estate, loss of consortium and future expenses should be Rs.15,000/-, Rs.40,000/-, and Rs.15,000/- respectively. The above said amounts should be enhanced @ 10% in every 3 years.

14. Therefore, in view of the above observation, the respondents/claimants are entitled to a sum of Rs.70,000/- towards loss of estate, loss of consortium and funeral expenditure. The Court below awarded a sum of Rs.80,000/- which includes consortium of both the parents. Therefore, I feel the Court below did not award any excess amount under the head as claimed by the appellant. The above said amount need not be modified or varied.

15. The next objection is about the awarding interest on the future prospects. In the latest Judgment placed by the respondents/claimants referred above, the Hon'ble Apex Court was pleased to arrive at a sum of Rs.21,78,600/- which includes a sum of Rs.2,16,000/- which was awarded towards future medical expenditure. While awarding the said amount, the Hon'ble Apex Court granted interest @ 6% per annum on the total compensation including the future medical expenses. Therefore, the appellant cannot claim that interest need not be or cannot be awarded on future events. In fact while calculating the loss of income of a deceased, a particular multiplier will be applied to arrive the income which the deceased likely to earn if he is alive. The said

amount will be awarded along with interest. The same analogy has to be applied in case of future prospects also.

16. In the light of the Judgment of the Apex Court which is binding on this Court, the Court below rightly awarded interest on the compensation as well as future prospects, thereby there is no necessity to interfere with the Judgment and the appeal is accordingly liable to be dismissed.

17. In the result, the appeal is dismissed.

Consequently, Miscellaneous applications if any, are closed. There shall be no order as to costs.

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**JUSTICE SAMBASIVA RAO NAIDU**

Date: 05.12.2022
*PLV*