

THE HONOURABLE JUSTICE G. SRI DEVI

M.A.C.M.A.No.2106 OF 2009

JUDGMENT:

This appeal is filed by the claimants, who are wife and son of the deceased P.Ramulu, aggrieved by the order and decree dated 07.05.2007 in O.P.No.1790 of 2005, on the file of the X-Additional Chief Judge (FTC), Hyderabad.

2. The brief facts of the case are that on the fateful day i.e., 13.05.2005 at about 08:00 a.m., the deceased was standing by the side of the road near Jayakrishna Hospital, Ramanthapur. At the time, an APSRTC bus bearing No.AP 11Z 5765, coming from Uppal side, driven by its driver in a rash and negligent manner in high speed, hit the deceased. As a result of the accident, the deceased fell down and sustained grievous injuries and he succumbed to the same while being shifted to Osmania General Hospital. A case is Cr.No.285 of 2005 was registered by Police, Uppal against the driver of the APSRTC bus.

3. The Tribunal, after examining the oral and documentary evidence on record, partly allowed the O.P., awarding a total compensation of Rs.2,19,000/- along with costs and interest @ 7.5% per annum from the date of petition till the date of realization. Not satisfied with the compensation granted by the Tribunal, the appellants-claimants have filed this appeal seeking enhancement of compensation.

4. Heard both sides and perused the record.

5. The learned counsel for the appellants-claimants contended that the Tribunal has failed to consider the evidence adduced on behalf of the claimants in proper perspective. It is contended that the deceased was aged 60 years and was earning Rs.10,000/- to Rs.12,000/- per month by doing business and on agriculture. The Tribunal took his monthly income at Rs.3,000/- only and thus caused great injustice. The Tribunal had erroneously fixed the multiplier '8' instead of '9' as per the decision of the Apex Court in **SARLA VARMA v. DELHI TRANSPORT CORPORATION**¹. The Tribunal has also erred in awarding Rs.2,000/- only towards funeral expenses, Rs.10,000/- towards loss of estate and Rs.15,000/- only towards loss of consortium to petitioner No.1. The learned counsel further contended that as per the decision of the Apex Court in **NATIONAL INSURANCE COMPANY LIMITED v. PRANAY SETHI AND OTHERS**², while determining the income, an addition of 10% of the established income should be made where the deceased was self-employed and was between the age group of 50 to 60 years. Accordingly, the learned counsel prayed for enhancement of compensation.

6. On the other hand, the learned standing counsel contends that the compensation granted by the Tribunal is just and reasonable and needs no interference.

¹ 2009(6) SCC 121

² 2017 ACJ 2700

7. 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 by the respondents.

8. Insofar as the quantum of compensation is concerned, the Tribunal has taken the income of the deceased at Rs.3,000/- per month and after deducting one-third towards personal expenses has arrived at Rs.2,000/- per month and by applying the multiplier '8' assessed the loss of dependency at Rs.1,92,000/- (Rs.24,000/- x 8). The Tribunal, while determining the income, ought to have added 10% of the established income, owing to the fact that the deceased was self-employed and was between the age group of 50 to 60 years as per the decision of the Apex Court in **PRANAY SETHI's** case (supra). If the same is applied for computing the income of the deceased, it comes to Rs.3,300/- (Rs.3,000/- plus Rs.300/- (10% of Rs.3,000/-). After deducting one-third towards personal expenses, it comes to Rs.2,200/- per month (Rs.3,300/- minus Rs.1,100/-) and Rs.26,400/- per annum (Rs.2200/- x 12). If multiplier '9' is applied as per the decision in **SARLA VARMA's** case, the loss of dependency works out to Rs.2,37,600/- (Rs.26,400 x 9).

9. Thus, this court feels that the appellants are entitled to the following amount towards compensation under various heads:

Sl. No.	Name of Head	Awarded by Tribunal Rs. Ps.	Awarded by this Court Rs. Ps.
1.	Loss of dependency	1,92,000.00	2,37,600.00
2.	Loss of consortium to claimant No.1	15,000.00	40,000.00

3.	Loss of Estate	10,000.00	15,000.00
4.	Funeral expenses	2,000.00	15,000.00
	TOTAL	2,19,000.00	Rs.3,07,600.00

10. In the result, the M.A.C.M.A. is allowed-in-part by enhancing the compensation awarded by the Tribunal from Rs.2,19,000/- to Rs.3,07,600/-. The enhanced amount shall carry interest at 7.5% p.a. from the date of order passed by the Tribunal i.e., 07.05.2007 till the date of realization, payable by respondents 1 and 2. There shall be no order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

JUSTICE G.SRI DEVI

Date: 24.01.2022

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