HON'BLE SMT. JUSTICE G. ANUPAMA CHAKRAVARTHY

M.A.C.M.A.No.1622 of 2010

JUDGMENT :

This appeal is arising out of the orders in O.P.No.1243 of 2006, dated 07.04.2010 on the file of Motor Accident Claims Tribunal-cum-Principal District Judge, Ranga Reddy.

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

3. The appellants are the claimants. The O.P. was filed by the claimants under Section 166 of the Motor Vehicles Act, claiming compensation of Rs.5,00,000/- on account of death of the deceased/K.Amarsingh, in the accident on 24.09.2006 at about 8.00 p.m. at KPHB bus stop. The said accident occurred while the deceased was walking on the road, he was hit by the lorry bearing No.AP-28-W-4250, being driven by its driver in a rash and negligent manner at a high speed. As a result, the deceased sustained multiple grievous injuries and was shifted to Remedy hospital, from there to NIMS hospital and from there to Osmania

Government hospital, where he succumbed to the injuries while undergoing treatment.

4. Basing on the complaint, a case was registered against the driver of the lorry in Crime No.1083 of 2006 on the file of Kukatpally Police Station for the offences punishable under Sections 338 and 337 of IPC, and later, the Section of law was altered to Section 304-A of IPC. The claimants are the wife, daughter and sons of the deceased. It is the specific averment in the claim petition that the deceased was a lorry driver and was earning Rs.10,000/- per month and was contributing the same to the family. He was aged about 32 years as on the date of accident.

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.2,49,500/-.

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 erred in not considering the income of the deceased as Rs.10,000/- per month and prayed to consider the income of the deceased as Rs.10,000/- per month by applying proper multiplier and also to grant future prospects and amounts under other Notional heads while calculating the compensation and prayed to allow the appeal.

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. On perusal of the entire evidence on record, there is no dispute as to the manner of the accident which occurred on 24.09.2006. PW-1 is the wife of the deceased. Claimant Nos.2 to 4 are the daughter and sons of the deceased. In the absence of proper evidence, the Tribunal has taken the income of the deceased as Rs.2,000/- per month. It is pertinent to mention that the claim petition is filed under Section 166 of the Motor Vehicles Act, but the Tribunal has awarded compensation under Section 163-A of the Act.

12. Admittedly, the age of the deceased as on the date of the accident was 32 years as per Exs.P-2 and P-3 i.e. the inquest and postmortem reports of the deceased respectively.

13. The Hon'ble Apex Court in the case of **Ramachandrappa v. Royal Sundaram Alliance Insurance Co. Ltd[1].**, taken the income of the deceased/coolie, as Rs.4,500/- per month. Though it is contended that the deceased was a lorry driver, there is no documentary evidence on record to prove the occupation of the deceased as lorry driver. Even the driving licence of the deceased

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[1] (2011) 13 SCC 236

was not placed before the Tribunal to consider the deceased as lorry driver. Therefore, taking into consideration the above said proposition, the income of the deceased is fixed as Rs.4,500/- per month, assuming the deceased as a coolie.

14. As stated supra, the deceased was aged about 32 years as on the date of the accident and the income of the deceased can be taken as Rs.4,500/- per month. If 40% future prospects is added, it would come to Rs.6,300/- (Rs.4,500+1800). As the claimants are four in number, 1/4th has to be deducted towards his personal expenses. Thus, his contribution towards family would come to Rs.4,725/-. As per the judgment of Hon'ble Supreme Court in **Smt.Sarla Verma v. Delhi Transport Corporation & another**[2], the multiplier applicable is '16' for the age group of 31 to 35 years. If the annual income and multiplier '16' are applied, then, the loss of earnings of the deceased would be Rs.9,07,200/- (Rs.4,725 X 12 X 16).

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[2] (2009) 6 SCC 121

15. As per the judgment of Hon'ble Supreme Court in **National Insurance Co. Ltd. v. Pranay Sethi & others**[3], wife and children of the deceased are entitled to Rs.40,000/- each towards consortium, Rs.15,000/- towards funeral expenses and 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.9,07,200/-
2.	Funeral expenses	Rs.15,000/-
3.	Consortium (Rs.40,000/- each to the wife and 3 children of the deceased)	Rs.1,60,000/-
4.	Loss of estate	Rs.15,000/-
	TOTAL	**Rs.10,97,200 /-**

17. Accordingly, the appeal is allowed, granting a total compensation of Rs.10,97,200/- with costs and interest at the rate of 7.5% per annum from the date of petition till the date of realization, to be deposited by respondent Nos.1 and 2 within one month from the date of receipt of a copy of this order. Claimant Nos.2 to 4 are minors as on the date of filing of the claim petition i.e. in the year 2006 and now they became majors. Therefore, all

[3] 2017 ACJ 2700

the appellants are equally entitled for the said amount and they are permitted to withdraw their respective shares, on payment of deficit Court fee.

Pending miscellaneous applications, if any, shall stand closed.

G.ANUPAMA CHAKRAVARTHY, J

Date: 30.11.2022

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