THE HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

MA.CMA.NO.2188 OF 2016

JUDGMENT

Being dissatisfied with the compensation granted by the court of the Motor Accident Claims Tribunal (VIII Additional District Judge) at Nizamabad in O.P.No.7 of 2007, the claimants filed the present appeal seeking enhancement.

2. The deceased is one Smt. Razia Begum, and the claimants are her husband and children.

3. The case of the claimants is that on 7.9.2006 at about 11.15 pm., the deceased along with others were traveling in an auto bearing No. AP 25 V 0021 from Perkit to Dichpally side, and when the auto was stopped in Jakranpally village on N.H.No.7 , at about 11.40 p.m., one tipper bearing No. ATV 7020 came from back side in a rash and negligent manner, and in high speed, dashed against the auto, as a result, the passengers traveling in the auto sustained injuries and the deceased, who sustained grievous injures in the accident, died in Government Hospital, Armoor, while undergoing treatment.

4. The further case of the claimant is that the deceased was earning an amount of Rs.7,000/- per month by doing beedi rolling work. With

these averments, the claimants filed the claim petition under Section 166 of the Motor Vehicles Act, 1988, claiming an amount of Rs.6,00,000/-.

5. The respondents 1 and 2, who are the insured and the insurer of the crime vehicle filed counter affidavits and contested the claim petition.

6. The Tribunal based on the evidence of P.W.2, who is an eye witness to the accident, coupled with Ex.A-1 to A-5, and in the absence of any rebuttal evidence by the respondents, held that the accident occurred due to rash and negligent driving of the driver of the tipper belonging to the 1st respondent.

7. With regard to quantum, the Tribunal taking the income of the deceased as Rs.2,000/- per month and by deducting 1/3rd towards personal expenses and by applying the multiplier of 13, granted an amount of Rs.2,08,000/- towards loss of dependency. The Tribunal further granted an amount of 2,000/- towards funeral expenses, Rs.5,000/- towards loss of consortium, and thus, in all, granted an amount of Rs.2,15,000/- with interest at the rate of 7.5 per cent per annum from the date of the claim petition till the date of realization.

8. As noted above, not being satisfied with the compensation granted by the Tribunal, the claimants filed the present appeal.

9. Heard Sri Amrutha Sanjeeva, learned counsel for the claimants, Sri D.Bhaskar Reddy, learned counsel for the 1st respondent and Sri Nisaruddin Ahmed Jeddy, learned Standing Counsel for the 2nd respondent – Insurance Company.

10. In the present case, the case of the claimants is that the deceased was a beedi roller and was earning an amount of Rs.7,000/- per month. But there is no evidence in this regard. However, if the deceased is taken as a home maker, considering her multifarious duties, she can be considered more than a skilled worker. Hence, I am inclined to take her earnings as Rs.4,500/- per month. The amount of Rs.2,000/- taken by the Tribunal are very meager, and they are accordingly modified. Thus, the annual earnings of the deceased comes to Rs.54,000/-.

11. As per postmortem certificate Ex.A-4, the age of the deceased is mentioned as 50 years. Hence, the age of the deceased is taken as 50 yeas. In view of the judgment of the Apex Court in NATIONAL INSURANCE CO. LTD. vs. PRANAY SETHI[1], she is entitled to future prospects of 25%. 25% of Rs.54,000/- comes to Rs.13,500/-. Thus the annual income of the deceased including future prospects comes to Rs.67,500/-.

[1] AIR 2017 SC 5157

12. The claimants are the dependants of the deceased, and they are six in number and hence as per the judgment of the Apex Court in SARLA VERMA vs. DELHI TRANSPORT CORPORATION[2], the deduction towards personal and living expenses of the deceased shall be 1/4th. But the Tribunal deducted 1/3rd, and the same is accordingly modified. If 1/4th is deducted from Rs.67,500/-, the amount that the deceased would be contributing to her family per annum comes to Rs.50,625/-. For the age group of the deceased, who is '50', the appropriate multiplier is '13'. Thus the amount towards loss of dependency comes to Rs.6,58,125/- (Rs.50,625/- x '13' = Rs.6,58,125/-).

13. As per the judgment of the Apex Court in Pranay Sethi's case, the claimants are entitled to Rs.77,000/- towards conventional heads (Rs.44,000/- to the 1st claimant towards loss of consortium, Rs.16,500/- towards loss of estate and Rs.16,500/- towards funeral charges) . The amounts granted by the Tribunal under these heads, is accordingly enhanced. The claimant Nos.5 and 6, who are minor children, are entitled to an amount of Rs.40,000/- each towards loss of parental consortium as per the judgment of the Apex Court in MAGMA GENERAL INSURANCE CO. LTD. v. NANU RAM[3] and the same is accordingly granted.

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[2] (2009)6 SCC 121
[3] (2018)18 SCC 130

14. Thus, the amount of Rs.2,15,000/- granted by the Tribunal is enhanced to Rs.8,15,125/- (Rs.6,58,125/- + Rs.77,000/- Rs.80,000/- = Rs.8,15,125/-) with interest at the rate of 7.5 per cent per annum from the date of the claim petition till the date of realization. The respondents 1 and 2 are jointly and severally liable to pay the compensation.

15. The apportionment of compensation among the claimants, and its deposit in nationalized bank and withdrawal shall be as ordered by the Tribunal.

16. The respondents shall deposit the compensation within a period of two months from the date of receipt of a copy of this order. Any amount already deposited shall be given credit to. The appellants / claimants shall deposit the deficit court fee.

17. The appeal is accordingly allowed to the extent indicated above.

18. Interlocutory Applications pending, if any, shall stand closed. No order as to costs.

M.G.PRIYADARSINI,J

DATE:28—11—2022
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