HON'BLE SMT. JUSTICE G. ANUPAMA CHAKRAVARTHY

M.A.C.M.A.No.4248 of 2012

JUDGMENT :

This appeal is arising out of the orders in O.P.No.2328 of 2003, dated 17.09.2006 on the file of Motor Accident Claims Tribunal-cum-XXII Additional Chief Judge, City Criminal Court, Hyderabad.

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 Motor Vehicles Act, claiming compensation of Rs.5,00,000/- on account of death of the deceased/Mohd.Hussain, in the accident which occurred on 02.05.2003 at 8.00 p.m., while the deceased along with his friend Assad Ahmed were going to Hyderabad from Moinabad on motorcycle bearing No.AP-28-G-3131 and when they reached Aziznagar, the motorcycle dashed to the stationed lorry bearing No.AP-11-U-3716, which was wrongly parked in the middle of the

road without any signals or parking lights. As a result, the deceased died on the spot.

4. Basing on the complaint of the friend of the deceased who sustained injuries, the SHO, Moinabad Police Station registered a case in Crime No.94 of 2003 against the driver of the lorry for the offence punishable under Section 304-A of IPC. The claimants are the parents of the deceased. It is the specific averment that the deceased was hale and healthy and was drawing monthly salary of Rs.6,000/- as Manager in M/s.Diamond Freight Carriers, Hyderabad and was contributing the same to the family.

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.1,22,000/-.

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 taking the age of the mother of the deceased while considering the multiplier and further did not consider Ex.A-6/the salary certificate of the deceased and instead of it, considered the income of the deceased as Rs.15,000/- per annum (notional income) while calculating the compensation and prayed to consider the income of the deceased as Rs.4,500/- per month and also to grant future prospects and 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 02.05.2003. PW-1 is the mother of the deceased. The Tribunal has taken the age of the mother of the deceased into consideration for the purpose of multiplier and Ex.A-6/salary certificate was not considered, as the author of Ex.A-6 was not examined. Exs.A-2 and A-3 are the inquest and postmortem reports of the deceased, wherein, the age of the deceased was mentioned as 19 years as on the date of accident.

12. 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. Therefore, taking into consideration the above said proposition, the income of the deceased is fixed as Rs.4,500/- per month, for the year 2003.

[1] (2011) 13 SCC 236

13. On perusal of the order of the Tribunal, it is evident that the Tribunal has awarded a total compensation of Rs.1,22,000/-. As already stated supra, the deceased was aged about 19 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 deceased is an unmarried person, 50% of his earnings has to be deducted towards his personal expenses. Thus, his contribution towards family would come to Rs.3,150/-. As per the judgment of Hon'ble Supreme Court in **Smt.Sarla Verma v. Delhi Transport Corporation & another**[2], the multiplier applicable is '18' for the age group of 15 to 25 years. If the annual income and multiplier '18' are applied, then, the loss of earnings of the deceased would be Rs.6,80,400/- (Rs.3,150 X 12 X 18).

14. As per the judgment of Hon'ble Supreme Court in **National Insurance Co. Ltd. v. Pranay Sethi & others**[3], claimants are entitled to Rs.40,000/- each towards consortium and Rs.15,000/-

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[2] (2009) 6 SCC 121
[3] 2017 ACJ 2700

towards funeral expenses and another Rs.15,000/- towards loss of estate.

15. Thus, the claimant is entitled to the compensation under the following heads;

1.	Loss of dependency	Rs.6,80,400/-
2.	Funeral expenses	Rs.15,000/-
3.	Consortium (Rs.40,000/- to each of the claimant)	Rs.80,000/-
4.	Loss of estate	Rs.15,000/-
	TOTAL	**Rs.7,90,400 /-**

16. Accordingly, the appeal is allowed, granting a total compensation of Rs.7,90,400/- with costs and interest at the rate of 7.5% per annum from the date of petition till the date of realisation. Therefore, the appellants i.e. the parents of the deceased are equally entitled for the said amount and they are permitted to withdraw the entire compensation, on payment of deficit Court fee.

Pending miscellaneous applications, if any, shall stand closed.

G.ANUPAMA CHAKRAVARTHY, J

Date: 24.11.2022

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