HON'BLE SMT. JUSTICE G. ANUPAMA CHAKRAVARTHY

M.A.C.M.A.No.4318 of 2012

JUDGMENT :

This appeal is arising out of the orders in O.P.No.713 of 2003, dated 06.02.2006 on the file of Motor Accident Claims Tribunal-cum-I Additional Metropolitan Sessions Judge-cum-XV Additional Chief Judge, Hyderabad.

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

3. The claimants are the appellants. The O.P. was filed by the claimants under Section 163-A of the Motor Vehicles Act, claiming compensation of Rs.3,00,000/- on account of death of the deceased/V.Shankaraiah, in the accident which occurred on 04.10.2000 at 10.45 p.m. The said accident occurred, while the deceased along with the co-labourers were engaged in a lorry bearing No.AP-22-T-8411 for loading and unloading of sand and at about 10.45 p.m., when the lorry reached the outskirts of Rajapur village, near Jangal Mangal dhaba, the driver of the said lorry drove the lorry at high speed, in a rash and negligent manner and

applied sudden brakes, to avoid an accident of dashing a lorry which is coming from the opposite side. Due to applying of sudden brakes, the door of the lorry got opened, the deceased fell down and sustained grievous bleeding injuries to his head. The deceased was shifted to Government hospital, Shadnagar, but the duty Doctor declared him as 'brought dead'.

4. Basing on the complaint, a case was registered against the driver of the lorry, in Crime No.131 of 2000 on the file of Shadnagar Police Station, 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 used to earn Rs.3,000/- per month and used to contribute the same to the family.

5. The Tribunal, after considering the oral and documentary evidence on record, granted a compensation of Rs.1,50,000/-.

6. Heard learned counsel for both the parties and perused the record.

7. It is contended by the learned counsel for the appellants/claimants that the Tribunal has erred in considering the income of the deceased as Rs.15,000/- per annum instead of considering Rs.3,000/- per month and that the claimants are entitled for more compensation than granted by the Tribunal under other notional heads including future prospects and prayed to enhance the compensation.

8. On the other hand, the counsel for the respondent/Insurance Company contended that there is no error or irregularity in the orders passed by the Tribunal and prayed to dismiss the appeal as it is devoid of merits.

9. As the dispute is relating to the quantum of compensation awarded by the Tribunal, the appreciation of evidence would be only on that aspect.

10. On perusal of the entire evidence on record, there is no dispute as to the manner of the accident which occurred on 04.10.2000 at 10.45 p.m.

11. It is pertinent to note, that the claim was made under Section 163-A of Motor Vehicles Act, which was repealed by the Central Government in the year 2019. Therefore, this appeal is considered as if, the claim is made under Section 166 of the Motor Vehicles Act, as the Tribunal has dealt with the liability of the Insurance Company as well as the negligence on the part of the driver of the vehicle, though the claim petition is filed under Section 163-A of the Motor Vehicles Act.

12. On perusal of the judgment of the Tribunal, it is evident that future prospects of the deceased are not considered and compensation under other notional heads were also not granted. There is no dispute as to the age of the deceased. As per Ex.A-3, the deceased was aged about 22 years. The income of the deceased can be taken as Rs.3,000/- per month. As per the judgment in **Smt.Sarla Verma v. Delhi Transport Corporation & another**[1], the claimants are also entitled for future prospects of 40% on the income of the deceased. If 40% future prospects are added, it would come to Rs.4,200/- (Rs.3,000+Rs.1,200). The claimants in

[1] (2009) 6 SCC 121

this case are two in number and 1/3rd has to be deducted towards the personal expenses of the deceased, thus, he would be contributing 2/3rd of his income to the family. As stated supra, the deceased was aged 22 years as on the date of the accident, as per Exs.A-3 postmortem report. As per the judgment of the Hon'ble Supreme Court in **Sarla Verma**'s case (1 supra), the multiplier applicable is '18' for the age group of 15 to 25 years. The annual income of the deceased would be Rs.50,400/- (Rs.4,200 X 12). Therefore, the loss of earnings of the deceased would be Rs.6,04,800/- (Rs.50,400 X 18 X 2/3).

13. As per the judgment of Hon'ble Supreme Court in **National Insurance Co. Ltd. v. Pranay Sethi & others**[2], the parents of the deceased are entitled to Rs.40,000/- each towards consortium and Rs.15,000/- towards funeral expenses and another Rs.15,000/- towards loss of estate.

14. Thus, the claimants are entitled to the compensation under the following heads;

1.	Loss of dependency	Rs.6,04,800/-
2.	Funeral expenses	Rs.15,000/-

[2] 2017 ACJ 2700

3.	Consortium (Rs.40,000/- each to the parents of the deceased)	Rs.80,000/-
4.	Loss of estate	Rs.15,000/-
	TOTAL	**Rs.7,14,800/-**

15. Accordingly, the appeal is allowed, enhancing the compensation granted by the Tribunal from Rs.1,50,000/- to Rs.7,14,800/- with costs and interest at the rate of 7.5% per annum from the date of petition till the date of realization, payable by the respondents jointly and severally within two months from the date of receipt of a copy of this order and the claimants are equally entitled for the said amount. Further, the claimants are permitted to withdraw their respective shares along with costs and interest, on payment of deficit Court fee, as the accident occurred in the year 2000.

Pending miscellaneous applications, if any, shall stand closed.

G.ANUPAMA CHAKRAVARTHY, J

Date: 09.12.2022

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