THE HONOURABLE SMT.JUSTICE P.MADHAVI DEVI

M.A.C.M.A.No. 865 OF 2017

ORDER:

This appeal is filed by the dependents of the deceased seeking enhancement of compensation awarded by the Motor Vehicle Accidents Claims Tribunal-Cum-II Additional Chief Judge, City Civil Court, Hyderabad, in O.P.No.1928 of 2014, dated 11.12.2015.

2. The appellants sought compensation of Rs.15,00,000/- for the death of the deceased in the Motor Vehicle accident that occurred on 05.05.2014. The lower Court has awarded a compensation of sum of Rs.6,65,000/-.

3. The learned counsel for the appellants submits that the deceased was an agriculturist and also driver of a tractor and was earning a sum of Rs.2,40,000/- per annum i.e., Rs.20,000/- per month. He submits that the Tribunal has adopted only a sum of Rs.4,000/- per month, which is very low and he seeks enhancement of compensation by adopting the monthly income atleast @ Rs.9,000/-. He further submits that the compensation towards loss of future profits is to be allowed @ 25%, but the Tribunal has allowed only @ 10%. He places reliance upon the judgment of Hon'ble Supreme Court in the

case **National Insurance Company Limited Vs. Pranay Sethi and others**[1] for this purpose.

4. The learned Standing Counsel for the Insurance Company submits that the Tribunal has been reasonable enough in awarding the compensation and there is no need to enhance the same. He further points out that the compensation awarded under the heads of consortium, loss of love and affection, funeral expenses and loss of estate are more than the compensation to be awarded under the Judgment of the Hon'ble Supreme Court in the case of **Pranay Sethi**.

5. Having regard to the rival contentions and the material on record, this Court finds that even if the deceased is considered as a labourer and not as a agriculturist and driver, he would be earning a sum of Rs.200/- to 300/- per day and therefore, his monthly income would be not less than Rs.6,000/- to Rs.7,000/-. In view thereof, a sum of **Rs.7,000/-** is to adopted towards the monthly income of the deceased and thus, compensation is to be awarded accordingly.

6. As regards the loss of future prospects, the deceased was 44 years of age, self employed person and therefore, the compensation towards loss of future prospects is to be allowed

[1] (2017) 16 SCC 680

@ **25%** as per the Judgment of Hon'ble Supreme Court in the case of **Pranay Sethi**. It is also noticed that the compensation awarded by lower Court under the various heads is not in accordance with the Judgment of Hon'ble Supreme Court. Therefore, it is modified suitably as under:

7. In the light of the above mentioned discussion, the appellants are entitled to the following amounts:

Sl.No.	**Head**	**Compensation awarded**
1.	Income	Rs.7,000/- per month.
2.	Future Prospects	Rs.1,750/- (i.e., 25% of the income).
3.	Deduction towards personal expenses	Rs.2,917/- i.e., 1/3rd of (Rs.7,000 + 1,750).
4.	Total Income	Rs.5,833/- i.e., 2/3rd of (Rs.7,000 + 1,750).
5.	Multiplier	14
6.	Loss of future income	Rs.9,79,944 (Rs.5,833x12x14).
7.	Funeral expenses	Rs.16,500 (15,000 + 10% thereof).
8.	Loss of estate	Rs.16,500 (15,000 + 10% thereof).
9.	Loss of spousal consortium	Rs.44,000 (40,000+10% thereof) payable to appellant No.1.
10.	Loss of parental consortium	Rs.44,000 (40,000+10% thereof) payable to appellant No.2.
	Total Compensation	Rs.11,00,944/- along with

	awarded	interest @ 7.5% per annum from the date of filing of the claim petition till payment.

8. In the result, the award dated 11.12.2015 in O.P.No.1928 of 2014 on the file of the Motor Accident Claims Tribunal-cum-II Additional Chief Judge, City Civil Court, Hyderabad is modified by awarding a total compensation of Rs.11,00,944/- (Rupees eleven lakhs nine hundred and forty four only) with costs and interest thereon at 7.5% per annum from the date of the claim petition till the date of realization against both the respondents jointly and severally. The 2nd respondent insurance company is directed to deposit the compensation amount within a period of 90 days from the date of receipt of a copy of this judgment. On such deposit being made by the respondent insurance company, appellants No.1 and 2 are permitted to withdraw the same without furnishing any security as per the following shares:

Appellant No.1 (wife) : Rs.6,00,944/-

Appellant No.2 (daughter) : Rs.5,00,000/-.

9. The MACMA is accordingly partly allowed without costs.

10. Pending miscellaneous petitions, if any, pending in this MACMA shall stand closed.

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Dated: 01.07.2022
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