

THE HONOURABLE SRI JUSTICE N. TUKARAMJI

M.A.C.M.A.No. 1980 of 2013

JUDGMENT:

Aggrieved and dissatisfied by the quantum of compensation granted in the decree and judgment dated 09.12.2011 in O.P.No.776 of 2010 on the file of M.A.C.T.-cum-V Addl. Metropolitan Sessions Judge (Mahila Court)- cum - XIX Addl. Chief Judge, at Hyderabad, the claim petitioners/appellants preferred this appeal.

2. The brief facts of the case are that on 30.01.2010 at about 6:30 PM, Sri A. Hari Prasad/deceased along with his friend Rajashekar while proceeding on foot on the road at Vangapally village, a lorry bearing No.AP01 W 7668 (for short, 'the lorry') driven by its driver in rash and negligent manner dashed both of them. As a result, Hari Prasad/deceased slumped and the rear tyre of the lorry ran over him and caused severe injuries, while he was undergoing treatment succumbed to injuries. Thereupon, the parent, brothers and

sister of the Hari Prasad/deceased filed claim petition seeking compensation of Rs.12,00,000/-.

3. The Tribunal, on considering the oral and documentary evidence placed by the petitioners, recorded that the accident had occurred owing to the rash and negligent driving of the lorry and awarded Rs.10,51,800/- with interest of 9 per annum against the owner and insurer of the lorry/ 1st and 2nd respondents.

4. In appeal, the petitioners contested that the Tribunal had properly allowed the monthly income of Rs.10,800/-, yet the future prospects has not been accounted and employed improper multiplier in assessing compensation. Further, the amounts awarded towards conventional heads are meager. Thus, prayed for reassessment and awarding just compensation.

5. On the other hand, the learned counsel for the 2nd respondent/insurer (hereinafter respondent) pleaded that the Tribunal had leniently considered the claim of the petitioners

and awarded reasonable compensation, though the interest on the compensation amount awarded is on higher side. However, in all fairness submitted that the pleading raised by the petitioners may be considered as per the settled propositions.

6. In this position, the point that arises for determination is:

Whether the compensation awarded to the petitioners is just and proper?

7. The petitioners pleaded that Hari prasad/deceased was aged about 21 years and pursuing B.Pharm III year on the date of accident. The Tribunal on considering the entries in Ex.A8/secondary school certificate and in placing reliance on the **B. Ramulamma, appellant Vs. M/s. Venkateshwara Bus Union and another, respondents¹** deduced monthly income to Rs.10,800/-. The petitioners have not raised any disagreement on these aspects. Thus, these findings are affirmed.

¹ 2009(3) LS 173

8. The Hon'ble Apex Court in the dictum of **National Insurance Company Limited Vs. Pranay Sethi and others**² held that in the case of death, future prospects shall be considered even if the deceased is self-employed. Having regard to the age of the deceased, 40% of the income has to be added towards future prospectus and further, as admittedly the deceased was bachelor, as per the directives of the Hon'ble Supreme Court in the authority of **Sarla Verma Vs. Delhi Transport Corporation**³ half of the income has to be deducted towards personal expenditure. Consequently, the annual contribution of the deceased would be of Rs.90,720/- ($10800 \times 40\% = 4320$; $10800 + 4320 = 15120$; $15120 / 2 = 7560$; $7560 \times 12 = 90,720$). This sum if multiplied with the relevant multiplier applicable to the age of the deceased i.e., 18, the amount would come to $(90,720 \times 18)$ Rs.16,32,960/-. The petitioners are entitled to this amount for the loss of dependency.

² (2017) 16 SCC 680

³ AIR 2009 SC 3104

9. In addition, the petitioners are entitled for Rs.15,000/- towards funeral expenses and Rs.15,000/- towards loss of estate. Further, 2nd petitioner as parent is entitled to filial consortium of Rs.40,000/-.

10. Thus, the petitioners are eligible for compensation as follows:

S.No.	Nature of compensation	Amount in Rs.
1.	Loss of dependant	16,32,960
2.	Filial Consortium	40,000
3.	Funeral Expenses	15,000
4.	Loss of estate	15,000
Total		17,02,960

11. Owing to the statutory obligation under Section 168 of the MV Act, and dictum of the Hon'ble Apex Court in **Nagappa Vs. Gurudayal Singh & Ors** the Courts are endowed to award just compensation, even if it is more than the claim amount in the petition, if the claimants are entitled. Accordingly, the amount arrived above shall be granted as compensation to the petitioners.

12. Resultantly, the appeal is allowed in the following terms:

- a. The appellants/claim petitioners are awarded compensation of **Rs.17,02,960/-** (Rupees seventeen lakhs two thousand nine hundred and sixty only) with interest at 7.5% per annum from the date of petition till realization;
- b. The 1st and 2nd respondents are liable to pay the compensation and they are directed to deposit the awarded amount with interest within one month from the date of receipt of copy of the order;
- c. On deposit of enhanced amount with interest the appellants/petitioners are permitted to withdraw entire amounts as per the apportionment in the award of the Tribunal;
- d. Accordingly, the impugned award stands modified.

As a sequel, miscellaneous petitions, if any pending, shall stand closed.

Date:08.09.2022
ss

N. TUKARAMJI, J