HON'BLE SMT. JUSTICE G. ANUPAMA CHAKRAVARTHY

M.A.C.M.A.No.2840 of 2009

JUDGMENT :

This appeal is arising out of the orders in O.P.No.1292 of 2003, dated 26.06.2006 on the file of Motor Accident Claims Tribunal-cum-I Additional Metropolitan Sessions Judge, 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 163(a) of the Motor Vehicles Act, claiming compensation of Rs.4,00,000/- on account of the death of the deceased/Shaik Mohammad Bagees, in the accident which occurred on 05.09.2002. On the said date, while the deceased was proceeding on his scooter towards Golconda, and when he reached Gandipet road along with his brother Salesh Bagees, one military truck bearing No.95-D-100614H, driven by its driver in a rash and negligent manner, dashed against the scooter from behind. As a result, the deceased and his brother sustained grievous bleeding

injuries and when shifted to Osmania Government hospital, the Doctor declared Mohd. Bagees (deceased) as brought dead.

4. Basing on the complaint of the brother of the deceased, a case was registered against the driver of the military Truck. The claimants are the parents and siblings of the deceased. It is the specific averment that the deceased was hale and healthy and was drawing monthly salary of Rs.4,000/- as a Salesman in a private organisation 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.2,41,000/-.

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 did not consider Ex.A-5/the salary certificate of the deceased and instead of it, considered the income of the deceased as Rs.2,000/- per month while calculating the compensation and prayed to consider the income of the deceased as Rs.4,500/- per month by applying the multiplier '18' and also to grant future prospects and amounts under other Notional heads while calculating the compensation.

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 05.09.2002. PW-1 is the mother and PW-2 is the brother of the deceased, respectively. The Tribunal has taken the age of the mother of the deceased into consideration. Ex.A-5/salary certificate was discarded/disbelieved by the Tribunal as the author of Ex.A-5 was not examined, further taken the income of the deceased as Rs.2,000/- per month and applied the multiplier '14' considering the age of the mother of the deceased. Admittedly, the age of the deceased was 23 years as per Exs.A-2 and A-3 i.e. inquest and postmortem reports of the deceased respectively.

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 2002.

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[1] (2011) 13 SCC 236

13. As already stated supra, the deceased was aged about 23 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). The claimants in this case are four in number and therefore, 1/4th of the earnings of the deceased has to be deducted towards personal expenses of the deceased. But, in the present case, as the deceased is an unmarried person, therefore, 50% of his earnings have 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], parents of the deceased are entitled to Rs.40,000/- each towards consortium and

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

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

15. Thus, the claimants are 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 the parents of the deceased)	Rs.80,000/-
4.	Loss of estate	Rs.15,000/-
	TOTAL	**Rs.7,90,400 /-**

16. Accordingly, the appeal is disposed of, 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. Claimant Nos.3 and 4 were minors and were aged 14 and 10 years respectively as on the date of filing of the claim petition i.e. on 08.05.2003, and now, they became majors. Therefore, all the appellants are equally entitled for the compensation amount and they are permitted to withdraw their respective shares, on payment of deficit Court fee.

Pending miscellaneous applications, if any, shall stand closed.

G.ANUPAMA CHAKRAVARTHY, J

Date: 28.11.2022

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