

THE HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

M.A.C.M.A. No.2608 of 2014

JUDGMENT:

Being dissatisfied with the quantum of compensation awarded in the award and decree, dated 05.05.2014 passed in M.V.O.P.No.377 of 2011 on the file of the Court of Principal Motor Accidents Claims Tribunal, Warangal (for short "the Tribunal"), the appellant preferred the present appeal seeking enhancement of the compensation.

2. For the sake of convenience, the parties will hereinafter be referred to as arrayed before the Tribunal.

3. Brief facts of the case are that the claimant, who is the sister of Sri Chada Santhosh Reddy (hereinafter referred to as "the deceased") filed a petition, claiming compensation of Rs.5,00,000/- for the death of the deceased, who died in a motor vehicle accident that took place on 15.01.2011. It is stated in the petition that on 15.01.2011, the deceased, came to the house of claimant on eve of Sankranthi and while he was returning back home on his motor cycle, along with Sri Peerala Kanukaiah, at about 06.30 p.m., when they reached the outskirts of Singapur village, a Ashok leyland lorry bearing No.AP-16TV-1750, came in a rash and negligent manner at high speed and hit the deceased. As

a result, the deceased fell down and died on the spot. The Police, Huzurabad Police Station, registered a case in Crime No.10 of 2011 for the offence punishable under Section 304-A of I.P.C. against the driver of the lorry bearing No.AP-16TV-1750 and took up the investigation. It is stated that prior to the accident, the deceased was employed as a clerk in Vijaya Tejashwini Junior College and earning Rs.9,000/- per month. Since the accident occurred due to the rash and negligent driving of the driver of the lorry, the claimant laid the claim-petition against respondent Nos.1, 2 and 3 who are the owner, the insurer of the lorry and local office of the respondent No.2 respectively.

4. Before the Tribunal, respondent Nos.1 and 2 remained *ex parte*.

5. Respondent No.3, filed counter denying the averments in the petition including the manner in which the accident took place, involvement of crime vehicle and registration of criminal case as claimed by the claimant and also the age, occupation and earnings of the deceased. It is specifically contended that the driver of the crime vehicle was not having valid and effective driving licence at the time of the accident and as such, respondent No.3-insurance company is not liable to pay the compensation. It

is further contended that the compensation claimed is excessive and prayed to dismiss the claim-petition.

6. Based on the above pleadings, the Tribunal framed the following issues:

- 1) Whether the accident occurred due to rash and negligent driving by the driver of the Ashok Leyland Lorry bearing registration No.AP-16TV-1750 of Mahindra Company?
- 2) Whether the petitioner is entitled to any compensation and if so, to what amount and from whom?
- 3) To what relief?

7. During trial, on behalf of the claimant, P.W.1 and 2 were examined and Exs.A1 to A9 were marked. On behalf of the respondents, Ex.B1 was marked.

8. After analyzing the evidence available on record, the Tribunal held that the accident occurred due to rash and negligent driving of the driver of the motor cycle and accordingly awarded an amount of Rs.1,42,400/- with interest @ 7.5 % per annum from the date of petition till the date of realization to be paid by the respondents.

9. Heard and perused the material available on record.

10. The only contention raised by the learned Counsel for the claimant is that as per the principles laid down by the Apex Court

in ***National Insurance Company Limited Vs. Pranay Sethi and others¹***, the claimants is also entitled to the future prospects and also Rs.33,000/- under conventional heads.

11. Learned Standing Counsel for the respondent No.3 have submitted that the issue with regard to the future prospects has been considered by the Tribunal as per the Apex Court in ***National Insurance Company Limited Vs. Pranay Sethi and others*** (supra) and that the compensation towards non-pecuniary damages has been rightly granted by the Tribunal and the same need not be enhanced.

12. A perusal of the impugned award discloses that the Tribunal has framed Issue No.1 as to whether the accident had occurred due to rash and negligent driving of the lorry by its driver, to which the Tribunal after considering the evidence of P.W.1 coupled with the documentary evidence, has categorically observed that the accident occurred due to the rash and negligent driving of the driver of the lorry and has answered in favour of the claimant and against the respondents. Therefore, I see no reason to interfere with the finding of the Tribunal that the accident

¹ 2017 ACJ 2700

occurred due to the rash and negligent driving of the rider of the motorcycle.

13. In so far as the quantum of compensation is concerned, PW.1 in order to prove the income of the deceased has placed Ex.A7, salary certificate of Rs.9,000/- per month. However, the Tribunal has not taken the same into consideration as insufficient and the author of the salary certificate i.e. who issued the salary certificate was not examined and taken the income of the deceased as Rs.4,000/-. As per the decision of the Apex Court in **RAMACHANDRAPPA v. THE MANAGER, ROYAL SUNDARAM ALLIANCE INSURANCE COMPANY LIMITED**² the monthly income of a daily wager at Rs.4,500/-. Hence, I am also inclined to take the monthly income of the claimant at Rs.4,500/-. The annual income comes to Rs.54,000/-(Rs.4,500/- x 12 = Rs.54,000/-). Since the deceased was aged about 28 years, the claimant is entitled to addition of 40% towards future prospects i.e. Rs.1,94,400/-, as per the decision of the Hon'ble Supreme Court in **Pranay Sethi** (supra). The appropriate multiplier is '18' as per the decision reported in **Sarla Verma v. Delhi Transport Corporation and another**³. Adopting multiplier 18, his total loss of earnings would be Rs.4,500/- x 12 x 18 = Rs.9,72,000/-. As the

² AIR 2011 SC 2951

³ (2009) 6 SCC 121

deceased was bachelor at the time of the accident, 50% of his income is deducted towards his personal expenses then it comes to Rs. 4,86,000/- (Rs.9,72,000/- x 50% = Rs.4,86,000/-). The claimant is also entitled to Rs.33,000/- towards loss of estate and funeral expenses under conventional heads, as per **Pranay Sethi's** case (supra). Thus, in all the claimant is entitled to Rs.7,13,400/-.

14. Accordingly, the M.A.C.M.A. is allowed. The compensation amount awarded by the Tribunal is hereby enhanced from Rs.1,42,400/- to Rs.7,13,400/-. The enhanced amount will carry interest at 7.5% p.a. from the date of passing of award by the Tribunal till the date of realization, payable by the respondent No.3. The enhanced amount shall be apportioned in the manner as ordered by the Tribunal. There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE M.G. PRIYADARSHINI

10.10.2022
Gms/Lpd