

THE HONOURABLE SMT. JUSTICE M.G. PRIYADARSINI

M.A.C.M.A. No. 2363 of 2014

JUDGMENT :

Dissatisfied with the quantum of compensation awarded by the XVII Additional Chief Judge-cum-III Additional Metropolitan Sessions Judge at Hyderabad vide order dated 16.06.2010 in O.P. No. 2412 of 2008, the present appeal is filed by the claimants.

2. On 28.06.2008, while the deceased, D. Sathish Kumar, was proceeding on his motorcycle from SBH, Gunfoundry towards Abids, the offending vehicle i.e., RTC bus bearing No. AP 28Z 1800, owned by respondents, being driven by its driver at high speed in a rash and negligent manner, came in opposite direction and dashed the motorcycle. As a result, the deceased fell down, received grievous injuries and died on the spot. According to the claimants, the deceased was 25 years, B.Sc. Computer Science graduate, working as Home Tutor and used to earn Rs.5,000/- per month. Therefore, they laid a claim for Rs.10.00 lakhs towards compensation under different heads.

3. The learned Tribunal, considering the claim of the appellants, counter filed by the respondents-RTC and on evaluation of oral and documentary evidence, allowed the O.P. in part awarding a total compensation of Rs.2,36,000/- along with costs and interest @ 7.5% per annum from the date of petition till the date of realization, to be

deposited by the respondents within one month from the date of said order.

4. Heard the learned counsel for the appellants and the learned Standing Counsel for the respondents-RTC. Perused the material available on record.

5. In this appeal, the learned counsel for the appellants-claimants has argued that the deceased was working as Home Tutor and earning Rs.5,000/- per month as he was B.Sc. Computer Science graduate as seen from Exs.A.7 & A.8, and as he was highly qualified person, the fixation of monthly income of the deceased at Rs.3,000/- is meagre. Further, relying on the decision of the Apex Court reported in **National Insurance Company Limited Vs. Pranay Sethi and others**¹, the learned counsel has contended that to the existing income of the deceased, 40% ought to have been added towards future prospects. Even the amount granted under conventional heads is too meagre and needs enhancement as per the decision in **Pranay Sethi** (supra). Therefore, the learned counsel seeks enhancement of compensation awarded by the learned Tribunal.

6. On the other hand, the learned Standing Counsel for the respondents-RTC, has contended that even though there was no

¹ 2017 ACJ 2700

proof as to the monthly income of the deceased, the learned Tribunal has adequately granted the compensation and the same needs no interference by this Court.

7. There is no dispute with regard to the manner of the accident and the rash and negligent driving of the offending vehicle by its driver in causing the accident on 28.06.2008 that resulted in the death of the deceased. As regards quantum of compensation, as seen from the record, the claimants-appellants had claimed that the deceased was working as Home Tutor and earning Rs.5,000/- per month. However, no proof to that effect was filed by them. But the fact remains that the deceased was highly qualified as seen from Exs.A.6, A.7 & A.14. Therefore, considering the qualification of the deceased and his age, the fixation of his income at Rs.3,000/- per month by the tribunal is on lower side. Keeping in mind the qualification of the deceased, this Court is inclined to fix the monthly income of the deceased at Rs.4,500/-. Since the deceased was 25 years, as per the decision of the Apex Court in **Pranay Sethi** (supra), to the actual income of the deceased, 40% needs to be added towards future prospects. Hence, the future income of the deceased comes to Rs.6,300/- per month (Rs.4,500 + Rs.1,800 being 40% thereof). As the deceased was bachelor, after deducting 50% therefrom towards personal expenses of the deceased, the net monthly future income of the deceased is Rs.3,150/- and the annual cartridge contribution to

the family comes to Rs.37,800/-. As per the decision of the Apex Court in **Smt. Sarla Varma v. Delhi Transport Corporation and another**², considering the age of the deceased as 25 years, the appropriate multiplier is '18'. Therefore, taking the same into consideration, the total loss of dependency of the appellants comes to Rs.6,80,400/-. Thus, under the head of loss of dependency, the compensation is enhanced to Rs.6,80,000/-, as against Rs.2,34,000/- awarded by the Tribunal. In addition thereto, under the conventional heads, as against the amount of Rs.2,000/- awarded by the Tribunal, the claimants are granted Rs.33,000/- as per the decision of the Apex Court in **Pranay Sethi** (supra). That apart, as per the decision of the Apex Court in **Magma General Insurance Company Limited v. Nanu Ram @ Chuhru Ram and others**³, the claimants, being the parents of the deceased,, are granted filial consortium of Rs.40,000/- each. Thus, in all, the compensation is enhanced to Rs.7,93,400/-, as against Rs.2,36,000/- awarded by the Tribunal.

8. In the result, the M.A.C.M.A. is allowed in part by enhancing the compensation amount awarded by the Tribunal from Rs.2,36,000/- to Rs.7,93,400/-. The enhanced amount shall carry interest at 7.5% per annum from the date of order passed by the Tribunal till the date of realization, to be payable by the respondents

² 2009 (6) SCC 121

³ (2018) 18 SCC 130

jointly and severally. The amount of compensation shall be apportioned between the appellants-claimants in the ratio as ordered by the Tribunal. The respondents shall deposit the amount within two months from the date of receipt of a copy of this order. On such deposit, the claimants are permitted to withdraw the said amount. There shall be no order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

JUSTICE M.G. PRIYADARSINI

12.12.2022

tsr

THE HONOURABLE SMT. JUSTICE M.G. PRIYADARSINI

M.A.C.M.A. No. 2363 of 2014

DATE:12-12-2022