

HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

M.A.C.M.A. No.4136 of 2014

JUDGMENT:

Not being satisfied with the quantum of compensation awarded by the Chairman, Motor Accident Claims Tribunal-cum-II Additional Chief Judge, City Civil Courts, Hyderabad in O.P. No.938 of 2012 dated 07.10.2013, the present appeal is filed by the claimants.

2. For the sake of convenience, the parties have been referred to as arrayed before the Tribunal.

3. According to the petitioners, on 19-02-2012 at about 11.00 a.m. the deceased M.Ramachander was proceeding in the auto bearing No. AP.23.X.2743 along with others from Bikya Thanda to go to their native place and when the auto reached at Rajupally shivar, the driver of the said auto drove it in a rash and negligent manner with high speed, due to which he lost control over the auto and applied sudden brake, as such, the auto turned turtle and Ramachander received fatal injuries. Immediately he was shifted to Area Hospital, Medak and from there to Gandhi Hospital, where he died on

20.02.2012 while undergoing treatment. According to the claimants, the deceased was aged 44 years and earning Rs.10,000/- per month besides batta by working as a Driver. Thus, the petitioners are claiming compensation of Rs.6,00,000/- under various heads.

4. Respondent No.1 remained ex parte; Respondent No.2 filed counter disputing the manner in which the accident occurred, age, avocation and income of the deceased. It is further contended that the claim is excessive.

5. In view of the above pleadings, the Tribunal raised the following issues:

- 1) Whether the accident took place due to the rash and negligent driving of the vehicle bearing No. AP.23.X.2743 causing death of M.Ramachander?
- 2) Whether the petitioners are entitled for compensation, if so, to what extent and from whom?
- 3) To what relief?

6. In order to prove the issues, on behalf of the petitioners, PWs.1 and 2 were examined and got marked Exs.A-1 to A-6.

On behalf of respondent No.2, no witnesses were examined, however, copy of insurance policy marked as Ex.B1.

7. On considering the oral and documentary evidence on record, the Tribunal has awarded an amount of Rs.6,00,000/- towards compensation to the appellants-claimants against the respondent Nos.1 and 2 jointly and severally, along with costs and interest @ 7.5% per annum from the date of petition till the date of deposit, as against the claim of Rs.6 lakhs.

8. Heard the learned counsel for the appellants-claimants and the learned Standing Counsel for the second respondent-Insurance Company. Perused the material available on record.

9. The learned counsel for the appellants-claimants has submitted that although the claimants established the fact that the death of the deceased-M.Ramachander was caused in a motor accident, the Tribunal awarded meager amount.

10. The learned Standing Counsel appearing on behalf of respondent No.2-Insurance Company sought to sustain the impugned award of the Tribunal contending that the Tribunal

after considering all aspects has awarded reasonable compensation and the same needs no interference by this Court.

11. With regard to the manner of accident, there is no dispute. However, the Tribunal after evaluating the evidence of PW.2 who is the eye witness-cum-injured in the alleged accident, coupled with documentary evidence on record has rightly held that the accident took place due to the rash and negligent driving of the offending vehicle by its driver.

12. Coming to the quantum of compensation, according to the petitioners, the deceased was a Driver and getting Rs.10,000/- per month besides batta and contributing the same to his family. However, since the petitioners did not produce any oral or documentary evidence to prove the income of the deceased, the Tribunal had taken the income of the deceased as Rs.4,500/- per month. However, considering the fact that the deceased is a driver, this Court is inclined to take the income of the deceased at Rs.5,500/- per month. Further, future prospectus was not considered by the Tribunal. Thus, in light of the principles laid down by the Apex Court in ***National Insurance***

Company Limited Vs. Pranay Sethi and others¹, the claimant is entitled to future prospects @ 25% of his income, since the deceased was aged 44 years. Then it comes to Rs.6,875/- (5,500 + 1375 = 6,875/-). From this, 1/4th is to be deducted towards personal expenses of the deceased following **Sarla Verma v. Delhi Transport Corporation**² as the dependents are five in number. After deducting 1/4th amount towards his personal and living expenses, the contribution of the deceased to his family would be Rs.5,156/- per month (6875 – 1718 = 5156/-). Since the deceased was 44 years by the time of the accident, the appropriate multiplier is ‘14’ as per the decision reported in **Sarla Verma v. Delhi Transport Corporation** (supra). Adopting multiplier ‘14’, the total loss of dependency would be Rs.5156/- x 12 x 14 = **Rs.8,66,208/-**. In addition thereto, the claimants are also entitled to **Rs.77,000/-** under the conventional heads as per **Pranay Sethi’s** (supra). Thus, in all the claimants are entitled to **Rs.9,43,208/-**.

¹ 2017 ACJ 2700

² 2009 ACJ 1298 (SC)

13. With regard to the liability, the tribunal rightly held that since the accident occurred due to the rash and negligent driving of the driver of the offending vehicle, which was insured with the respondent No.2-Insurance Company and the policy was in force as on the date of accident, respondent Nos.1 and 2 are jointly and severally liable to pay compensation.

14. In the result, the M.A.C.M.A. is allowed by enhancing the compensation amount awarded by the Tribunal from Rs.6,00,000/- to **Rs.9,43,208/-**. The enhanced amount shall carry interest at 7.5% p.a. from the date of order of the Tribunal till the date of realization, to be payable by the respondent Nos.1 and 2 jointly and severally. The amount shall be deposited within a period of one month from the date of receipt of a copy of this order. The claimants shall pay deficit Court fee on the enhanced compensation, since the initial claim was for Rs.6,00,000/-. On such payment of court fee only, the claimants are entitled to withdraw the amount. There shall be no order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

SMT.M.G.PRIYADARSINI,J

11.11.2022
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