HON'BLE SMT. JUSTICE G. ANUPAMA CHAKRAVARTHY

M.A.C.M.A.No.1953 of 2010

JUDGMENT :

This appeal is arising out of the orders in O.P.No.3 of 2008, dated 01.06.2010 on the file of Motor Accident Claims Tribunal-cum-IX Additional Chief Judge, City Civil Court, 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 death of the deceased/M.Ranjith, in an accident on 01.09.2007 at 10.00 p.m.. The said accident occurred while the deceased was proceeding in Maruthi Omni van bearing No.AP-25-TV-0122 along with others from Balakonda village to Begumpet and when the Van reached Shakthi Timber Depot, at the outskirts of Ramayampet village, one Lorry bearing No. CG-04-J-4593, driven by its driver in a rash and negligent manner, dashed against the Van. As a result, the deceased sustained multiple grievous injuries and later he

succumbed to injuries while undergoing treatment in Gandhi hospital, Secunderabad.

4. Basing on the complaint of one Naresh, a case was registered against the driver of the Bus in Crime No.190 of 2007 on the file of Ramayampet Police Station for the offences punishable under Sections 338 and 337 of IPC, and later, the Section of law was altered to Section 304-A of IPC. The claimants are the parents and brother of the deceased. It is the specific averment in the claim petition that the deceased was hale and healthy and was earning Rs.5,000/- per month by doing business and contributed 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.2,95,000/-.

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 not considering the income of the deceased as Rs.5,000/- per month and prayed to consider the income of the deceased as Rs.5,000/- per month by applying proper multiplier and also to grant future prospects and amounts under other Notional heads while calculating the compensation and prayed to allow the appeal.

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 01.09.2007. PW-1 is the mother of the deceased. The claimants 2 and 3 are the father and brother of the deceased. In the absence of proper evidence, the Tribunal has taken the income of the deceased as Rs.3,000/- per month.

12. Admittedly, the age of the deceased as on the date of the accident was 24 years as per Exs.A-2 and A-3 i.e. inquest and postmortem reports of the deceased respectively.

13. 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 2004.

14. As stated supra, the deceased was aged about 24 years as on the date of the accident and the income of the deceased can be

[1] (2011) 13 SCC 236

taken as Rs.4,500/- per month. If 40% future prospects is added, it would come to Rs.6,300/- (Rs.4,500+1800). As the deceased is an unmarried person, 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).

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

16. Thus, the claimants are entitled to the compensation under the following heads;

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

1.	Loss of dependency	Rs.6,80,400/-
2.	Funeral expenses	Rs.15,000/-
3.	Consortium (Rs.40,000/- each to the parents of the deceased)	Rs.80,000/-
4.	Loss of estate	Rs.15,000/-
	TOTAL	**Rs.7,90,400 /-**

17. Accordingly, the appeal is allowed, 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, payable by the respondents jointly and severally within one month from the date of receipt of a copy of this order. All the appellants are equally entitled for the said 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: 29.11.2022

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