

THE HONOURABLE SRI JUSTICE N. TUKARAMJI

M.A.C.M.A.No. 3051 of 2012

JUDGMENT:

Aggrieved and dissatisfied by the quantum of compensation granted in the decree and judgment dated 09.12.2011 in O.P.No.777 of 2010 on the file of M.A.C.T.-cum-V Addl. Metropolitan Sessions Judge (Mahila Court)- cum - XIX Addl. Chief Judge, at Hyderabad, the claim petitioners/appellants preferred this appeal.

2. The brief facts of the case are that on 30.01.2010 at about 6:30 PM, Sri Rajasekhar/deceased along with his friend A.Hari Prasad while proceeding on foot at Vangapally village, a lorry bearing No.AP01 W 7668 (for short, 'the lorry') driven by its driver in rash and negligent manner dashed them. Thusly, Rajasekhar/deceased slumped and the rear tyre of the lorry ran over him and while undergoing treatment, succumbed to his injuries. Thereupon, the parents, brothers and sister of

Rajasekhar/deceased filed claim petition seeking compensation of Rs.12,00,000/-.

3. The Tribunal, on analyzing the material evidence on record held that the accident happened as a result of rash and negligent during of the driver of the lorry and awarded Rs.10,51,800/- with interest of 9% per annum against the owner and insurer of the lorry/1st and 2nd respondents.

4. In the appeal, the petitioners would contend that the Tribunal had properly approved the monthly income of Rs.10,800/- nevertheless, future prospects has not been estimated and improper multiplier was applied in assessment of compensation. Further, the amounts granted towards conventional heads are inadequate. Thus, prayed for reassessment and for awarding just compensation.

5. Per contra, the learned counsel for the 2nd respondent/ insurer (hereinafter, 'the respondent') pleaded that the Tribunal had leniently considered the claim of the petitioners and awarded reasonable compensation, albeit the interest on

the compensation amount has been on higher side. However, in all fairness submitted that the claims raised by the petitioners may be considered as per the settled proposition.

6. In this position, the point that arises for determination is:

Whether the compensation awarded to the petitioners is just and proper?

7. The petitioners pleaded that Rajasekhar/deceased was aged about 21 years and pursuing III year B.Pharmacy, by the date of accident. The Tribunal on considering the entries in Ex.A8/secondary school certificate and in placing reliance on the **B. Ramulamma, appellant Vs. M/s. Venkateshwara Bus Union and another, respondents¹** deduced monthly income to Rs.10,800/-. The petitioners have not raised any contention on these aspects. Thus, these findings are affirmed.

8. The Hon'ble Apex Court in the dictum of **National Insurance Company Limited Vs. Pranay Sethi and others²** held that in the case of death, future prospects shall

¹ 2009(3) LS 173

² (2017) 16 SCC 680

be considered even if the deceased is self-employed. Having regard to the age of the deceased, 40% of the income shall be added towards future prospectus and further, as admittedly the deceased was bachelor, by relying on the directions of the Hon'ble Supreme Court in the authority of **Sarla Verma Vs. Delhi Transport Corporation**³ half of the income has to be deducted towards personal expenditure. Accordingly, the annual contribution of the deceased would be Rs.90,720/- ($10800 \times 40\% = 4320$; $10800 + 4320 = 15120$; $15120 / 2 = 7560$; $7560 \times 12 = 90,720$) if this amount is multiplied with the relevant multiplier applicable to the age of the deceased i.e., 18, it would come to ($90,720 \times 18$) Rs.16,32,960/-. The petitioners are entitled to this amount for the loss of dependency.

9. In addition, the petitioners are also entitled for Rs.15,000/- towards funeral expenses and Rs.15,000/- towards loss of estate. The 1st and 2nd petitioners being parents, are also entitled filial consortium at Rs.40,000/- each. Thus, the petitioners are eligible for compensation as follows:

³ AIR 2009 SC 3104

S.No.	Nature of compensation	Amount in Rs.
1.	Loss of dependant	16,32,960
2.	Filial Consortium to the 1 st and 2 nd petitioners	80,000
3.	Funeral Expenses	15,000
4.	Loss of estate	15,000
Total		17,42,960

10. Section 168 of the MV Act, contemplates that the Court is bound to award just compensation. The Hon'ble Apex Court in **Nagappa Vs. Gurudayal Singh & Ors.** held that more compensation than the claim amount can be awarded if the claimants are entitled to. Accordingly, granting the amount arrived above to the petitioners is found just and proper.

11. Consequently, the appeal is allowed in the following terms:

- a. The appellants/claim petitioners are awarded compensation of **Rs.17,42,960/-** (Rupees seventeen lakhs forty two thousand nine hundred and sixty only) with interest at 7.5% per annum from the date of petition till realization;
- b. The 1st and 2nd respondents are liable to pay the compensation and they are directed to deposit the

awarded amount with interest within one month from the date of receipt of copy of the order;

- c. On deposit of enhanced amount with interest the appellants/petitioners are permitted to withdraw entire amounts as per the apportionment in the award of the Tribunal;
- d. Accordingly, the impugned Award stands modified.

As a sequel, miscellaneous petitions, if any pending, shall stand closed.

Date:08.09.2022
ss

N. TUKARAMJI, J