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

M.A.C.M.A.No.1851 of 2014

JUDGMENT:

Dissatisfied with the quantum of compensation awarded in the Award and decree, dated 22.10.2008 passed in M.V.O.P.No. 686 of 2007 on the file of the IV Additional Metropolitan Sessions Judge-cum-XVIII Additional Chief Judge at Red Hills, Hyderabad (for short, "the tribunal"), the appellants/claimants preferred the present appeal seeking enhancement of the compensation.

2. For the sake of convenience, hereinafter, the parties will be referred to as per their array before the tribunal.

3. The facts, in issue, are as under:

The claimants filed a petition under Section 166 & 163-A of the Motor Vehicles Act, 1988 claiming compensation of Rs.13,00,000/- for the death of one Brendan Savio, unmarried son of claimants, (hereinafter referred to as "the deceased"), who died in a motor vehicle accident that occurred on 06.07.2006. It is stated that on 06.07.2006, while the deceased, along with his friend, was proceeding on a motorcycle, when the motorcycle reached near Andhra Bank, West Marredpally, Secunderabad, at about 9:30 p.m., the crime vehicle i.e., Honda DIO motorcycle bearing No. AP 10AG 0406, owned by respondent No. 1, insured with respondent

No. 2, being ridden by its driver in a rash and negligent manner, came in opposite direction and dashed the motorcycle, as a result of which, the deceased fell down, received multiple injuries and died on the way to the hospital. According to the claimants, the deceased was aged about 19 years, unmarried, working as Customer Service Executive in Maxie IT Services Private Limited, Ameerpet and earning Rs.9,700/- per month and therefore, they laid the claim for Rs.13.00 lakhs towards compensation against the respondents.

4. Before the Tribunal, the respondent No.1 filed his counter denying the manner in which the accident took place. Respondent No.2 filed its counter denying the manner in which the accident took place, including the age, avocation and income of the deceased. It is also stated that the quantum of compensation claimed is excessive, baseless and prayed to dismiss the petition.

5. Considering claim, counters and the oral and documentary evidence available on record, the Tribunal held that the accident occurred due to the negligent driving of the rider of the offending motorcycle and accordingly awarded an amount of Rs.7,37,000/- with interest @ 7.5% per annum from the date of petition till the date of realization to be paid by the respondents 1 and 2 jointly

and severally. Challenging the same, the present appeal is filed by the claimants seeking enhancement.

6. Heard the learned counsel for the claimants, appellants and the learned Standing Counsel for the respondent No. 2, insurance company. Perused the record.

7. The main contention of the learned counsel appearing for the appellants is that since the claimants have asserted that the deceased was drawing salary of Rs.9,700/- per month, by producing Ex.A.7, salary certificate, the Tribunal ought to have accepted the avocation of the deceased and the income, but however, erroneously fixed the income of the deceased at Rs.6,000/- per month. It is further contended that the claimants, being parents of the deceased, ought to have been granted filial consortium of Rs.40,000/- each in view of the judgment of the Apex Court in ***Magma General Insurance Company Limited v. Nanu Ram @ Chuhru Ram and others***[1]**.** Further, as per the decision of the Apex Court in ***National Insurance Company Limited Vs. Pranay Sethi and others***[2], the claimants are entitled to addition of 40% towards future prospects to the established income of the deceased. That apart, under the conventional heads,

[1] (2018) 18 SCC 130
[2] 2017 ACJ 2700

the claimants ought to have been awarded Rs.33,000/- instead of Rs.17,000/- awarded by the tribunal. It is lastly contended that the tribunal has erred in taking the age of the mother of the deceased for the purpose of adopting the multiplier and instead, following the decision of the Apex Court in ***Sarla Verma v. Delhi Transport Corporation***[3], the appropriate multiplier is '18'.

8. On the other hand, the learned Standing Counsel for the respondent No.2, Insurance company, has contended that relied on Ex.A.7 only, the Tribunal has assessed the income of the deceased Rs.6,000/- per month, but however, the learned Standing Counsel fairly admits that in view of the decision of the Apex Court in **Sarla Verma** (supra), the appropriate multiplier is '18'.

9. The finding of the Tribunal with regard to the manner in which the accident took place has become final as the same is not challenged by either of the respondents.

10. As regards the quantum of compensation, as seen from the salary certificate of the deceased under Ex.A.7, the deceased was drawing the monthly salary of Rs.9,700/- per month, but however, the tribunal, erroneously took the monthly income of the deceased as Rs.6,000/- only considering the basic and D.A. Even Ex.A.6,

[3] 2009 ACJ 1298 (SC)

appointment letter, issued by the employer reflects that the deceased was offered the total salary of Rs.9,700/-. In these circumstances, this Court is inclined to fix the monthly salary of the deceased at Rs.9,700/-. Further, considering the fact that the deceased was 19 years old at the time of the accident, the claimants are entitled to addition of 40% towards future prospects to the established income, as per the decision of the Hon'ble Supreme Court in ***Pranay Sethi*** (supra). Therefore, the future monthly income of the deceased comes to Rs.13,580/- (Rs.9,700/- + Rs.3,880/-) and after deducting the professional tax of Rs.200/-, it comes to Rs.13,380/- per month. From this, as the deceased was bachelor, 50% is to be deducted towards personal expenses of the deceased following ***Sarla Verma*** (supra). After deducting 50% therefrom towards his personal and living expenses, the net contribution of the deceased to the family comes be Rs.6,690/- per month. Since the age of the deceased was 19 years at the time of the accident, the appropriate multiplier is '18' as per the guidelines laid down by the Apex Court in ***Sarla Verma*** (supra). Adopting multiplier '18', the total loss of dependency would be Rs.6,690/- x 12 x 18 = Rs.14,45,040/-. That apart, the claimants are entitled to Rs.33,000/- under the conventional heads as per the decision of the Apex Court in **Pranay Sethi** (supra). Further, under the head of filial consortium, the claimants, being parents of the deceased, are entitled to Rs.40,000/- each, as per the decision of the Apex Court in ***Nanu Ram @ Chuhru Ram*** (supra). Thus, in all, the claimants are entitled to Rs.15,58,040/-.

11. Accordingly, M.A.C.M.A. is allowed. The compensation amount awarded by the Tribunal is enhanced from Rs.7,37,000/- to Rs.15,58,040/-. The enhanced amount shall carry interest at 7.5% p.a. from the date of passing of order by the Tribunal till the date of realization. The enhanced amount shall be apportioned in the manner as ordered by the Tribunal. The claimants are directed to pay the deficit court fee since the original claim was Rs.13.00 lakhs. Time to deposit the entire compensation is two months from the date of receipt of a copy of this judgment. On such deposit, the claimants are entitled to withdraw their respective share amounts. There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

SMT. M.G.PRIYADARSINI, J

28.11.2022
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THE HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

M.A.C.M.A.No.1851 of 2014

DATE: 28-11-2022