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

M.A.C.M.A. Nos.740 of 2015 and 1332 of 2015

COMMON JUDGMENT:

These two appeals are being disposed of by this common judgment since M.A.C.M.A.No.740 of 2015 filed by the parents, sister and grandfather and M.A.C.M.A.No.1332 of 2015 filed by the wife and son seeking enhancement of the compensation, are directed against the very same order and decree, dated 31.12.2014 made in M.V.O.P.No.409 of 2011 on the file of the Motor Accident Claims Tribunal-cum-XXV Additional Chief Judge, City Civil Court, Hyderabad (for short "the Tribunal").

2. For the sake of convenience, the parties will hereinafter be referred to as arrayed before the Tribunal.

3. Brief facts of the case are that the wife and minor son of one P.Chandraiah (hereinafter referred to as "the deceased") filed a petition under Section 166 of the Motor Vehicles Act, 1988, claiming compensation of Rs.9,00,000/- for the death of the deceased. In the above

claim-petition, the appellants in M.A.C.M.A.No.740 of 2015 were arrayed as respondent Nos.3 to 6. It is stated that on 14.08.2010 at about 11:00 a.m., while the deceased was proceeding on his motorcycle bearing No.AP 24 AE 3058 from Alair to Bhongiri and when he reached Vangapally, one Lorry bearing No.MH34 AB 0903, owned by respondent No.1, Rajkumar Darak and insured with respondent No.2, ICICI Lombard General Insurance Company Limited, being driven by its driver in a rash and negligent manner at high speed and dashed the motorcycle of the deceased, as a result, the deceased sustained grievous injuries and died on the spot. On a complaint, a case in Crime NO.170 of 2010 was registered against the driver of the Lorry. It is also stated that prior to the accident the deceased was working in M/s. Surya Vamshi Spinning Mills, Bhongiri and earning Rs.8,000/- per month and due to sudden demise of the deceased, the dependents of the deceased lost their source of income, love and affection. Hence the claim.

4. After considering the claim and the counters filed by the respondents, and on evaluation of the evidence, both oral and documentary, the learned Tribunal has partly allowed the O.P. holding that the wife, minor son and parents of the deceased are entitled to Rs.9,00,000/- with interest at 6% per annum from the date of order till the date of realization and the claim against the sister and grandfather of the deceased was dismissed. Challenging the same, wife and minor son of the deceased filed M.A.C.M.A.No.1332 of 2015 and the parents, sister and grandfather of the deceased filed M.A.C.M.A.No.740 of 2015.

5. Heard learned counsel appearing for the appellants in both the appeals and the learned Standing Counsel appearing for the Insurance Company. Perused the material available on record.

6. 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 owner or insurer of the offending vehicle.

7. Insofar as the quantum of compensation is concerned, considering the evidence of P.W.3, the Tribunal has rightly taken the income of the deceased at Rs.6,300/- per month, but the Tribunal has not added the future prospects. As per the decision of the Hon'ble Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others***[1] the claimants are entitled to addition of 40% of the amount towards future prospects. Therefore, monthly income of the deceased comes to Rs.8,820/- (Rs.6,300/- + Rs.2,820/-). Though the parents, sister and grandfather of the deceased were shown as respondents, the Tribunal ought not to have deducted 1/3rd stating that there are only two claimants. Since the dependents are more than three members, the Tribunal ought to have deducted 1/4th towards personal expenses of the deceased. Therefore, after deducting 1/4th amount towards his personal and living expenses, the contribution

[1] 2017 ACJ 2700

of the deceased to the family would be Rs.6,615-00 per month. As per Ex.A3-Post Mortem Examination Report, the deceased was aged about 37 years at the time of the accident the appropriate multiplier is '15'. Adopting multiplier '15', the total loss of dependency would be Rs.6,615/- x 12 x 15 = Rs.11,90,700/-. The claimants are also entitled to Rs.77,000/- under the conventional heads as per **Pranay Sethi**'s case (supra). In addition thereto, the claimant No. 2, being the minor son of the deceased is entitled to Rs.50,000/- towards parental consortium and the appellant Nos.1 and 2 in M.A.C.M.A.No.740 of 2015, who are the parents of the deceased, are entitled to Rs.40,000/- each under the head of filial consortium as per the decision of the Apex Court in **Magma General Insurance Company Limited v. Nanu Ram @ Chuhru Ram and others**[2]. Thus, in all, the wife, minor son, parents and the sister of the deceased are entitled to Rs.13,97,700/-. Out of the said amount the appellant No.3 in M.A.C.M.A.No.740 of 2015, who is the sister of the

[2] (2018) 18 SCC 130

deceased, is entitled to Rs.22,700/- and the remaining amount of Rs.13,75,000/- shall be apportioned among the wife, minor son and parents of the deceased, as ordered by the Tribunal.

8. At this stage, the learned Counsel for the Insurance company submits that the claimants claimed only a sum of Rs.9,00,000/- as compensation and the quantum of compensation which is now awarded would go beyond the claim made which is impermissible under law.

9. In view of the Judgments of the Apex Court in ***Laxman @ Laxman Mourya Vs. Divisional Manager, Oriental Insurance Company Limited and another***[3] and ***Nagappa Vs. Gurudayal Singh***[4], the claimants are entitled to get more amount than what has been claimed. Further, the Motor Vehicles Act being a beneficial piece of legislation, where the interest of the claimants is a paramount consideration the Courts should always

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[3] (2011) 10 SCC 756
[4] 2003 ACJ 12 (SC)

endeavour to extend the benefit to the claimants to a just and reasonable extent.

10. Accordingly, both the appeals are allowed in part to the extent indicated above.

11. The claimants are directed to pay Deficit Court Fee on the enhanced amount. There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE M.G. PRIYADARSHINI

12.10.2022
VSL/BB

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

<u>M.A.C.M.A. Nos.740 of 2015 and 1332 of 2015</u>

Dated: 12.10.2022
VSL/Bb