THE HONOURABLE SMT. JUSTICE M.G. PRIYADARSINI

M.A.C.M.A. No. 261 of 2016

JUDGMENT :

Dissatisfied with the quantum of compensation awarded by The Motor Accident Claims Tribunal-cum-The Court of the Chief Judge, City Civil Court, Hyderabad vide order dated 15.06.2015 in M.V.O.P. No. 1144 of 2013, the present appeal is filed by the claimants.

2. On 24.10.2012, at about 07:00 p.m., while the deceased, M.Srinivas, aged about 30 years, was proceeding on his motorcycle bearing No.AP 29 BR 7103 from Manchal towards Choudharypally Village side and after crossing Crida Gate, Gungal, one Sedan Car bearing No.AP 27 AP 0369 came in opposite direction driven at high speed in a rash and negligent manner and dashed against the motorcycle. As a result, the deceased fell down and sustained grievous injuries. Immediately, he was shifted to Global Hospital, while he was undergoing treatment, he died on 02.11.2012. According to the claimants, the deceased was 30 years, working as Conductor in A.P.S.R.T.C and earning Rs.6,560/- per month and contributing the same for the welfare of his family. Therefore, they laid a claim for Rs.16.00 lakhs towards compensation under different heads.

3. The learned Tribunal, considering the claim of the appellants, counter filed by the Insurance Company and on evaluation of oral and documentary evidence, allowed the O.P. in part, awarding a total compensation of Rs.9,67,160/- along with costs and interest @ 7.5% per annum from the date of petition till the date of realization, to be deposited by the respondents within three months from the date of said order.

4. Heard both the sides and perused the material available on record.

5. In this appeal, the learned Counsel for the appellants-claimants has argued that the claimants, in order to substantiate their claim that the deceased was working as a Conductor in A.P.S.R.T.C and earning Rs.6,560/- per month, produced Ex.X.1, salary certificate, apart from examining P.W.3, one G.Venkateshwarlu, Junior Assistant at A.P.S.R.T.C, Bandlaguda Depot , who has categorically deposed that the deceased was working in their Depot as Conductor and joined in duty on 16.07.2010 on contract and he was being paid Rs.6,570/- per month. P.W.1 in her evidence deposed that the deceased was working a Conductor and earning Rs.7,250/- per month. Therefore, in the absence of any contra evidence adduced by the Insurance Company, the Tribunal ought to have fixed the income of the deceased at Rs.6,570/- per

month, which is very meagre. Further, relying on the decision of the Apex Court reported in **National Insurance Company Limited Vs. Pranay Sethi and others**[1], the learned counsel has contended that to the existing income of the deceased, 40% ought to have been added towards future prospects. Even the amount granted under conventional heads is too meagre and needs enhancement as per the decision in **Pranay Sethi** (supra). Therefore, the learned counsel seeks enhancement of compensation awarded by the learned Tribunal.

6. Therefore, this Court is inclined to assess the income of the deceased at Rs.7,250/- per month. Since the deceased was 30 years, as seen from Ex.A.4, Post Mortem Examination Report, as per the decision of the Apex Court in **Pranay Sethi** (supra), towards future prospects at 40% of the actual income of the deceased needs to be added. Hence, the future income of the deceased would be Rs.10,150/- per month (Rs.7,250 + 40% thereof). The Apext court in **Sarla Verma vs. Delhi Transport Corporation**[2], held that where the number of dependent family members of the deceased are 4 to 6, the deduction towards personal living expenses, shall be 1/4th . As the dependents are four in number, after deducting 1/4th therefrom towards personal expenses of the deceased, the net monthly future

[1] 2017 ACJ 2700

[2] (2009)6 SCC 121

income of the deceased is Rs.7,613/-. As per the decision of the Apex Court in **Sarla Verma** (supra) considering the age of the deceased as 28 years, the appropriate multiplier is '17'. Therefore, taking the same into consideration, the total loss of dependency of the appellants comes to Rs.15,53,052/-. Thus, under the head of loss of dependency, the compensation is enhanced to Rs.15,53,052/- In addition thereto, under the conventional heads, the claimants are granted Rs.77,000/- as per the decision of the Apex Court in **Pranay Sethi** (supra). Thus, in all, the compensation is enhanced to Rs.16,30,052/-, as against Rs. 9,67,160/- awarded by the Tribunal.

8. In the result, the M.A.C.M.A. is allowed by enhancing the compensation amount awarded by the Tribunal from Rs. 9,67,160/- to Rs.16,30,052/-. The enhanced amount shall carry interest at 7.5% per annum from the date of order passed by the Tribunal till the date of realization, to be payable by the respondents jointly and severally. The amount of compensation shall be apportioned among the appellants-claimants in the ratio as ordered by the Tribunal. The claimants shall pay deficit Court fee on the enhanced compensation. If the deficit court fee is not paid as per Rule 475 of M.V.Rules before the Tribunal, the claimants are not entitled for execution of Award in respect of enhanced compensation.

As a sequel thereto, miscellaneous applications, if any, pending shall stand closed. There shall be no order as to costs.

JUSTICE M.G. PRIYADARSINI

Date: 30.11.2022

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