

HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

M.A.C.M.A. No. 190 of 2015

JUDGMENT:

Dissatisfied with the quantum of compensation awarded by the Chairman, Motor Accident Claims Tribunal-cum-XIII Additional Chief Judge, City Civil Courts, Hyderabad in M.V.O.P. No.1823 of 2013, dated 26.08.2014, the present appeal is filed by the claimants.

2. For the sake of convenience, the parties have been referred to as arrayed before the Tribunal.

3. According to the petitioners, on 20-01-2012 at about 7-00 p.m. the deceased Nagella Narsimha along with N.Kistaiah was proceeding as a pillion rider on Chetak bearing No. AP 24 7033 towards Nalgonda and on the way when they reached the outskirts of Malkapur village near Borrallaguda Stage, at that time one RTC Bus bearing No. AP 24 Z 0023 being driven by its driver came in a rash and negligent manner with high speed, suddenly applied brakes after overtaking scooter, due to which, rider of Chetak dashed the bus from behind. Due to which the deceased fell down and sustained grievous injuries on the vital parts of the body. After the accident, he was shifted to Government Area Hospital, Choutuppal in 108 Ambulance but

he died on the way to hospital. Thus the petitioners are claiming compensation of Rs.6,00,000/- against the respondent Nos.1 and 2-Andhra Pradesh State Road Transport Corporation.

4. Respondent Nos.1 and 2 filed counter disputing the manner of accident, age, avocation and income of the deceased. It is further contended that the compensation claimed by the petitioners is excessive.

5. Heard the learned counsel for the appellants-claimants and the learned Standing Counsel for the respondents-Corporation. Perused the material available on record.

6. Vide aforesaid order, the Tribunal has awarded an amount of Rs.2,10,000/- towards compensation to the appellants-claimants against the respondents along with proportionate costs and interest @ 7.5% per annum from the date of filing of the petition till realization, as against the claim of Rs.6 lakhs.

7. The learned counsel for the appellants-claimants has submitted that although the claimants, by way of evidence of P.W.1 and Exs.A.1 to A.5 and Ex.X1, established the fact that

the death of the deceased-Nagella Narsimha was caused in a motor accident, the Tribunal awarded meager amount.

8. The learned Standing Counsel appearing on behalf of respondents-Corporation sought to sustain the impugned award of the Tribunal contending that the Tribunal has awarded reasonable compensation and the same needs no interference by this Court.

9. Here it is pertinent to state that originally the claim petition filed under Section 163-A of Motor Vehicles Act 1989. But the tribunal without assigning any reason framed issue under Section 166 of Motor Vehicles Act and decided the issue in favour of the petitioners. However, based on the evidence on record, the Court can consider Section 166 instead of Section 163-A of Motor Vehicles Act. In ***Bhupati Prameela and others vs. Superintendent of Police, Vizianagaram and others***¹, the Division Bench of this Court held as under:

“ Thus it appears that it is the duty of the Courts to do justice to the parties and while doing justice, if the technicalities come in the way, much importance need not be given to these technicalities because, ultimately, justice has to be done to the parties. Moreover, when sub-section(4) of Section 166 of the Act envisages that the Tribunal shall treat any report of accidents forwarded to it under sub-section (6) of Section 158 of the Act as an application for compensation under the Act, there is nothing wrong in treating an application filed under Section 163-A of the Act as an application under Section 166 of the Act. In view of the above and

¹ (2011) 10 SCC 756

considering the object of the Act, we are of the view that the petition filed under Section 163-A of the Act can be treated as an application under Section 166 of the Act.”

In view of the above Judgment of the Division Bench of this Court, the petition filed under Section 163-A of the Motor Vehicles Act can be treated as an application under Section 166 of the Motor Vehicles Act. The Tribunal has framed issue on rash and negligence under Section 166 of Motor Vehicles Act and accordingly settled the issue in favour of the appellants/petitioners.

10. With regard to the quantum of compensation is concerned, according to the petitioners, the deceased was aged 58 years and earning Rs.7,500/- per month on agriculture. However, as there is no income proof, the Tribunal has taken the income of the deceased at Rs.30,000/- per annum, which is very less. Therefore, considering the age and avocation of the deceased, the income of the deceased can be taken at Rs.6,000/- per month. Further, in light of the principles laid down by the Apex Court in ***National Insurance Company Limited Vs. Pranay Sethi and others***², the claimants are also entitled to the future prospects and since the deceased was

² 2017 ACJ 2700

aged about 58 years at the time of accident, 10% of the income is added towards future prospects. Then it comes to Rs.6,600/- (6,000 + 600 = 6,600). Since the deceased left as many as three persons as the dependants, 1/3rd of his income is to be deducted towards his personal and living expenses. Then the contribution of the deceased would be Rs.4,400/- (6,600 – 2,200 = 4,400) per month. Since the deceased was aged about 58 years at the time of accident, the appropriate multiplier in light of the judgment of the Apex Court in ***Sarla Verma v. Delhi Transport Corporation***³ is “9”. Then the loss of dependency would be Rs.4,400/- x 12 x 9 = **Rs.4,75,200/-**. 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 petitioners are entitled for **Rs.5,52,200/-**.

11. In the result, the M.A.C.M.A. is partly allowed by enhancing the compensation amount awarded by the Tribunal from Rs.2,10,000/- to **Rs.5,52,200/-**. The enhanced amount shall carry interest at 7.5% p.a. from the date of petition till the date of realization, to be payable by the respondents jointly and severally. The amount of compensation shall be apportioned

³ 2009 ACJ 1298 (SC)

among the appellants-claimants in the ratio as ordered by the Tribunal. The amount shall be deposited within a period of one month from the date of receipt of a copy of this order. On such deposit of compensation amount by the respondents-Corporation, the claimants are at liberty to withdraw the same without furnishing any security. There shall be no order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

JUSTICE M.G.PRIYADARSINI

29.11.2022
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