

THE HONOURABLE SMT.JUSTICE P.MADHAVI DEVI

M.A.C.M.A.No. 980 OF 2016

ORDER:

This appeal is filed by the claimants seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal-Cum-VIII Additional District Judge, Nizamabad, in O.P.No.568 of 2013, dated 08.09.2015.

2. The claimants sought compensation of Rs.12,00,000/- for the death of the deceased in the Motor Vehicle accident that occurred on 17.03.2013. The Tribunal has awarded a compensation of Rs.9,54,000/- with interest @ 6% per annum thereon from the date of claim petition till the date of payment. Seeking enhancement of the compensation, the present MACMA is filed.

3. The learned counsel for the claimants submits that the deceased was working as a mason and was earning Rs.25,000/- per month, but the Tribunal has allowed only Rs.3,000/- per month income and accordingly computed the compensation and that the claimants are seeking enhancement of the same. He further submits that the Tribunal has awarded interest only @ 6% per annum as against the interest rate @ 7.5% per annum which was prevalent at the relevant point of time.

4. There is no appearance on behalf of the respondents in spite of service of notice.

5. Having regard to the material on record and also having regard to the fact the deceased was aged 25 years and was admittedly working as mason at the time of the accident, the reasonable monthly income of the deceased can be taken as Rs.8,000/- and the compensation is to be computed accordingly.

6. The Tribunal has erroneously awarded compensation for loss of future prospects at 50 % as against 40%, which is allowable as per the Judgment of Supreme Court in the case of **National Insurance Company Limited Vs. Pranay Sethi and others**¹ and it is modified accordingly. Further it is seen that the compensation awarded under the other heads is not in accordance with the Judgment of Supreme Court in the case of **Pranay Sethi**. Therefore, the compensation awarded under those heads is modified as under.

7. Claimant No.1 being the wife is entitled for Spousal Consortium and claimant Nos.2 and 3 being children are entitled to Parental Consortium and claimant Nos.4 and 5 being parents are entitled for Filial Consortium and each of them are

¹ (2017) 16 SCC 680

entitled to the Consortium @ Rs.40,000/-+10% enhancement thereon and they are also entitled to the conventional expenses such as funeral expenses and loss of estate @ Rs.15,000/- + 10% enhancement thereon.

8. In the light of the above mentioned discussion, the appellants are entitled to the following amounts:

Sl.No.	Head	Compensation awarded
1.	Income	Rs.8,000/- per month.
2.	Future Prospects	Rs.3,200/- (i.e. 40% of the income).
3.	Deduction towards personal expenses	Rs.2,800/- i.e., 1/4 th of (Rs.8,000 + 3,200).
4.	Total Income	Rs.8,400/- i.e., 3/4 th of (Rs.8,000 + 3,200).
5.	Multiplier	18
6.	Loss of future income	Rs.18,14,400 (Rs.8,400x12x18).
7.	Funeral expenses	Rs.16,500 (15,000 + 10% thereof).
8.	Loss of estate	Rs.16,500 (15,000 + 10% thereof).
9.	Loss of spousal consortium	Rs.44,000 (40,000+10% thereof) payable to appellant No.1.
10.	Loss of parental consortium	Rs.88,000 (40,000+10% thereof) payable to each of appellant Nos.2 and 3.
11.	Loss of filial consortium	Rs.88,000 (40,000+10% thereof) payable to each of

		appellant Nos.4 and 5.
	Total Compensation awarded	Rs.20,67,400/- along with interest @ 7.5% per annum from the date of filing of the claim petition till payment.

9. In the result, the award dated 08.09.2015 in O.P.No.568 of 2013 on the file of the Motor Accident Claims Tribunal-cum-VIII Additional District Judge at Nizamabad is modified by awarding a total compensation of Rs.20,67,400/- (rupees twenty lakhs sixty seven thousand and four hundred only) with costs and interest thereon at 7.5% per annum from the date of the claim petition till the date of realization against both the respondents jointly and severally. As the compensation payable to the appellants as per law is found to be higher than the original claim of Rs.12,00,000/-, the enhanced compensation of Rs.8,67,400/- is granted subject to payment of Court fee on such enhanced compensation. Out of the said compensation, appellant No.1 being wife is entitled to Rs.8,67,400/- (rupees eight lakhs sixty seven thousand four hundred only), appellants No.2 and 3 being minor sons are each entitled to Rs.3,50,000/- (three lakhs fifty thousand only) and appellants No.4 and 5 being parents are each entitled to Rs.3,50,000/- (rupees three lakhs fifty thousand only). The respondent insurance company is directed to deposit the compensation amount within a period

of 90 days from the date of receipt of a copy of this judgment. On such deposit being made by the respondent insurance company, appellants No.1, 4 and 5 are permitted to withdraw their respective shares of compensation amount without furnishing any security. The shares of compensation amount of Rs.3,50,000/- (rupees three lakhs fifty thousand only) each relating to the minor appellants No.2 and 3 shall be kept in fixed deposits in any nationalized bank in their names representing their mother, appellant No.1 herein, as their natural guardian till they attain majority.

10. The MACMA is accordingly allowed without costs.

11. Pending miscellaneous petitions, if any, pending in this MACMA shall stand closed.

JUSTICE P.MADHAVI DEVI

Dated: 01.07.2022
bak

THE HONOURABLE SMT JUSTICE P.MADHAVI DEVI

M.A.C.M.A.No. 980 OF 2016

Dated: 01.07.2022

bak