HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

M.A.C.M.A. No.447 of 2015

JUDGMENT:

Not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal-cum-XXV Additional Chief Judge, City Civil Courts, Hyderabad in M.V.O.P. No.871 of 2012 dated 15.05.2014, the present appeal is filed by the claimants seeking enhancement of compensation.

2. Appellants are the petitioners in the main O.P. According to the petitioners, on 5.12.2011 the deceased-Y.Veerabrahmaji and his friend Naveen Kumar Reddy started from Vijayawada and proceeding towards Hyderabad on CBZ motorcycle bearing No. AP.28.BQ.5556 and at about 2-00 p.m. when they reached Thadvai village outskirts, the driver of DCM van bearing No. AP.28.W.8211 drove the vehicle in rash and negligent manner with high speed and dashed their motorcycle, due to which both of them fell down and sustained grievous injuries. Immediately they were shifted to Area Hospital, Suryapet and from there the deceased was shifted to Image Hospital, Hyderabad and while undergoing treatment at Image Hospital,

he died. Hence the claimants seeking compensation of Rs.15,00,000/- with interest @18% per annum.

3. Both the respondents have filed their separate counters disputing the manner of accident pleaded by the claimants and also the age, avocation and income of the deceased. It is further contended that the claim is exorbitant and sought for dismissal of the claim petition.

4. In view of the above pleadings, the Tribunal raised the following issues:

1) Whether Y.Veerabrahmaji died in a motor accident due to the rash and negligent driving of driver of DCM van bearing No. AP.28.W.8211?

2) Whether the petitioners are entitled to compensation, if so, how much and from whom?

3) To what relief?

5. In order to prove the issues, PWs.1 to 3 were examined and got marked Exs.A-1 to A-6. On behalf of respondents, no witnesses were examined, however, Ex.B1 was marked.

6. On considering the oral and documentary evidence on record, the Tribunal has awarded an amount of Rs.12,18,000/-

towards compensation to the appellants-claimants against the respondent Nos.1 and 2 jointly and severally, along with proportionate costs and interest @ 6% per annum from the date of order till realisation, as against the claim of Rs.15 lakhs claimed by the appellants–claimants for the death of the deceased-Y.Veerabrahmaji in a road accident that occurred on 05.12.2011.

7. Heard the learned counsel for the appellants-claimants and the learned Standing Counsel for the second respondent-Insurance Company. Perused the material available on record.

8. With regard to the manner of accident, there is no dispute. However, the Tribunal has rightly held that the accident took place due to the rash and negligent driving of the offending vehicle by its driver. Then the only dispute in the present appeal is with regard to the quantum of compensation.

9. Coming to the quantum of compensation, the learned counsel for the appellants has submitted that the claimants have claimed a sum of Rs.15 lakhs on the ground that the deceased was working as CNC Programmer in M/s. Siri (pet) Plastics and earning Rs.15,000/- per month and contributing

the same to his family. However, the Tribunal had taken the income of the deceased at Rs.6,000/-. A perusal of Ex.A6 salary certificate discloses that the deceased was earning Rs.17,000/- per month towards his salary. The Tribunal has not accepted the evidence of PW-3, Proprietor of M/s. Siri (Pet) Plastics at Jeedimetla, Hyderabad and did not consider the income of the deceased. It is pertinent to state that the respondents did not adduce any rebuttal evidence to show that the deceased is not working as CNC Programmer in M/s. Siri (pet) Plastics, except disputing the income of the deceased. Under these circumstances, this Court is of the considered view that the income of the deceased can be taken as Rs.15,000/- per month, which comes to Rs.1,80,000/- per annum. Further, future prospectus was not considered by the Tribunal. Thus, in the light of the principles laid down by the Apex Court in ***National Insurance Company Limited Vs. Pranay Sethi and others***[1]**,** the claimants are entitled to future prospects @ 40% of his income, since the deceased was aged 27 years. Then it comes to Rs.2,52,000/- (1,80,000 + 72,000 = 2,52,000/-). Out of Rs.2,52,000/-, an amount of Rs.10,400/- is to be deducted

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[1] 2017 ACJ 2700

towards income tax. Then the actual income per annum comes to Rs.2,41,600/-(Rs.2,52,000 – 10,400 = 2,41,600/-). Since the deceased was a bachelor, 50% of his income is to be deducted towards his personal and living expenses. Then the contribution of the deceased would be Rs.1,20,800/-. Since the deceased was aged about 27 years at the time of accident, the appropriate multiplier in the light of the judgment of the Apex Court in ***Sarla Verma v. Delhi Transport Corporation***[2] would be "17". Then the loss of dependency would be Rs.1,20,800/- x 17 =**Rs.20,53,600/-.** In addition thereto, under the conventional heads, the claimants are granted **Rs.33,000/-** as per the decision of the Apex Court in **Pranay Sethi** (supra). Thus, in all, the compensation is awarded as follows:

Sl.No.	Description	Amount awarded
1.	Loss of dependency (Rs.1,20,800/- x 17 = Rs.20,53,600/-)	Rs.20,53,600-00
2.	Conventional heads	Rs. 33,000-00
	Total:	**Rs.20,86,600-00**

[2] 2009 ACJ 1298 (SC)

10. In the result, the M.A.C.M.A. is allowed by enhancing the compensation amount awarded by the Tribunal from Rs.12,18,000/- to **Rs.20,86,600-00**. The enhanced amount shall carry interest at 6% p.a. from the date of this order till the date of realization, to be payable by the respondent Nos.1 and 2 jointly and severally. The amount of compensation shall be apportioned 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. The claimants shall pay deficit Court fee on the enhanced compensation, since the initial claim was for Rs.15,00,000/-. On such payment of court fee only, the claimants are entitled to withdraw the amount. There shall be no order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

SMT.M.G.PRIYADARSINI,J

26.09.2022
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