

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

M.A.C.M.A. No.1870 of 2014

JUDGMENT:

Dissatisfied with the quantum of compensation awarded by the III Additional Chief Judge, City Civil Court, Hyderabad in O.P. No.1379 of 2009, dated 12.07.2011, the present appeal is filed by the claimants.

2. Vide aforesaid order, the Tribunal has awarded an amount of Rs.2,22,000/- towards compensation to the appellants-claimants against the respondents herein who are owner and insurer of the offending vehicle i.e., lorry bearing No.CG.04.JA.6394, jointly and severally, along with proportionate costs and interest @ 6% per annum from the date of filing the petition till the date of deposit, as against the claim of Rs.4 lakhs laid by the appellants-claimants for the death of the deceased-Venkatram @ Venkat Rao in a road accident that occurred on 28.05.2008.

3. According to the petitioners, on 28.05.2008 at about 7-30 A.M., while the deceased was standing by the side of Amar Jyothi Petrol Pump, Balanagar, Hyderabad, waiting for labour work, at that time, a lorry bearing No. CG 04 JA 6394 was stuck up in a drainage pit and its driver was trying to lift it up

with the help of a crane. The lorry driver needed some help and so, he called the deceased to help him in attaching crane hooks at the rear of the said lorry. Accordingly, the deceased went there and helped the lorry driver and then stood aside. The driver of lorry then signaled the crane operator to lift the lorry. When the crane operator lifted the lorry, the lorry suddenly hit the drainage air pipe by the side of the road, due to which the upper portion of the said pipe broke and fell on the deceased resulting in grievous injuries to him. Immediately, after the accident, the deceased was taken to Gandhi Hospital, Secunderabad, where he succumbed to the injuries on 29.05.2008, at about 1-45 P.M.

4. Heard the learned counsel for the appellants-claimants and the learned Standing Counsel for the respondent No.2-The New India Assurance Company Limited. Perused the material available on record.

5. The learned counsel for the appellants-claimants has submitted that although the claimants, by way of evidence of P.Ws.1 and 2, and Exs.A.1 to A.6, established the fact that the death of the deceased-Venkatram @ Venkat Rao was caused in a motor accident, the Tribunal awarded meager amount.

6. The learned Standing Counsel appearing on behalf of respondent No.2 sought to sustain the impugned award of the Tribunal contending that considering the learned Tribunal has awarded just and reasonable compensation and the same needs no interference by this Court.

7. Admittedly, there is no dispute with regard to the manner of accident and the involvement of the offending vehicle i.e., motorcycle bearing No.AP.25.H.8801.

8. With regard to the quantum of compensation, the deceased was working as a labourer and earning Rs.3,300/- and as such, the Tribunal ought to have taken the income of the deceased at Rs.3,300/- instead of Rs.3,000/-. Further, 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 also entitled to the future prospects and since the deceased was aged about 50 years at the time of accident, 10% of the income is added towards future prospects. Then it comes to Rs.3,630/-. Since the deceased left as many as three persons as the dependants, 1/3rd of his income is to

¹ 2017 ACJ 2700

be deducted towards his personal and living expenses. Then the contribution of the deceased would be Rs.2,420/- per month. Since the deceased was aged about 50 years at the time of accident and this petition is filed under Section 163-A of the Motor Vehicles Act, the appropriate multiplier would be "11". Then the loss of dependency would be $\text{Rs.2,420/-} \times 12 \times 11 = \text{Rs.3,19,440/-}$. 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.3,96,440/-**, as against Rs.2,22,000/- awarded by the Tribunal.

9. In the result, the M.A.C.M.A. is partly allowed by enhancing the compensation amount awarded by the Tribunal from Rs.2,22,000/- to **Rs.3,96,440/-**. The enhanced amount shall carry interest at 7.5% p.a. 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 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, 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.

06.09.2022
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