

HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

M.A.C.M.A. No.326 of 2015

JUDGMENT:

Not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal-cum-XIII Additional Chief Judge (Fast Track Court), City Civil Court, Hyderabad in M.V.O.P. No.2717 of 2011 dated 03.02.2014, 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 30.06.2011 in the night hours, the deceased D.Sudhir Kumar and his friends were traveling in a car bearing No. AP.29.UL.TR.1709 and at about 23-30 hours when they reached Jubilee Check Post, the driver of the said car drove it in rash and negligent manner with high speed and hit a road side tree, due to which, the front portion of the car was completely damaged and all the inmates of the car including the deceased struck in the car and sustained injuries and fractures. Immediately after the accident the

deceased was shifted to Osmania General Hospital, Hyderabad for treatment, but the doctors declared as dead.

4. Respondent No.2 filed counter disputing the manner in which the accident occurred, age, avocation and income of the deceased. It is further contended that the claim is excessive.

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

- 1) Whether the pleaded accident dated 30.06.2011 was occurred due to rash and negligent driving of the driver of the crime vehicle i.e. car bearing No. AP.29.UL.TR.1709 and whether the deceased D.Sudhir Kumar died due to the said accident?
- 2) Whether the petitioners are entitled for the compensation, if so, to what quantum and whether crime vehicle was owned by first respondent and insured with second respondent and what is the liability of the respondents?
- 3) To what relief?

6. In order to prove the issues, PWs.1 and 2 were examined and got marked Exs.A-1 to A-8. On behalf of respondent No.2, no oral or documentary evidence was produced.

7. On considering the oral and documentary evidence on record, the Tribunal has awarded an amount of Rs.11,55,000/- towards compensation to the appellants-claimants against the respondent Nos.1 and 2 jointly and severally, along with proportionate costs and interest @ 7.5% per annum from the date of petition till realisation, as against the claim of Rs.15 lakhs laid by the appellants-claimants for the death of the deceased-D.Sudhir Kumar in a road accident that occurred on 30.06.2011.

8. 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.

9. The learned counsel for the appellants-claimants has submitted that although the claimants established the fact that the death of the deceased-D.Sudhir Kumar was caused in a motor accident, the Tribunal awarded meager amount.

10. The learned Standing Counsel appearing on behalf of respondent No.2-Insurance Company sought to sustain the impugned award of the Tribunal contending that the learned

Tribunal after considering all aspects has awarded reasonable compensation and the same needs no interference by this Court.

11. With regard to the manner of accident, there is no dispute. However, the Tribunal after evaluating the evidence of PWs.1 and 2 coupled with documentary evidence on record, has rightly held that the accident took place due to the rash and negligent driving of the offending vehicle by its driver.

12. Coming to the quantum of compensation, the learned counsel for the appellants had submitted that the claimants have claimed a sum of Rs.15 lakhs on the ground that the deceased was working in M/s.P.V. Electro Plating Works, Fathenagar, Hyderabad and earning Rs.15,000/- per month and contributing the same to his family. However, the Tribunal had taken the income of the deceased as above Rs.10,000/- per month and Rs.1,25,000/- per year, which appears to be too meager, as the deceased passed B.Tech Computers Science and Engineering. Hence, this Court has taken the income of the deceased at 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 23 years. Then it comes to Rs.2,52,000/- (1,80,000 + 72,000 = 2,52,000/-). Out of Rs.2,52,000/-, as there is no income tax up to Rs.2 lakhs during the year 2010-11, an amount of Rs.10,400/- is to be deducted towards income tax @ 20% on Rs.52,000/-. 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 23 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 “18”. Then the loss of dependency would be Rs.1,20,800/- x 18 = **Rs.21,74,400/-**. In addition thereto, under the conventional heads, the claimants are granted **Rs.33,000/-** as

¹ 2017 ACJ 2700

² 2009 ACJ 1298 (SC)

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 18 =Rs.21,74,400/-)	Rs.21,74,400-00
2.	Conventional heads	Rs. 33,000-00
	Total:	Rs.22,07,400-00

13. In the result, the M.A.C.M.A. is allowed by enhancing the compensation amount awarded by the Tribunal from Rs.11,55,000/- to **Rs.22,07,400-00**. 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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