HON'BLE SMT. JUSTICE G. ANUPAMA CHAKRAVARTHY

M.A.C.M.A.No.580 of 2013

JUDGMENT :

This appeal is arising out of the orders in O.P.No.424 of 2002, dated 18.07.2006 on the file of Motor Accident Claims Tribunal-cum-XII Additional Chief Judge, City Civil Court, Hyderabad.

2. For the sake of convenience, parties are referred to as arrayed in the O.P.

3. The appellants are the claimants. The O.P. was filed by the claimants under Section 166 of the Motor Vehicles Act, claiming compensation of Rs.3,00,000/- on account of the death of the deceased/Gannoji Ramesh, in the accident which occurred on 03.12.2001 at about 9.30 p.m.. The said accident occurred while the deceased and his family members were returning from Tirupathi and when their car reached the limits of Kondapur Police Station, one oil tanker bearing No.AP-12-U-858, driven by its driver in a rash and negligent manner, dashed against the car of the

deceased. As a result, the deceased died on the spot and the family members of the deceased were shifted to hospital.

4. Basing on the complaint of the inmates of the car, a case was registered against the driver of the oil tanker in Crime No.69 of 2001 on the file of Kondapur Police Station for the offence punishable under Section 304-A of IPC. The claimants are the wife, son and parents of the deceased. It is the specific averment in the claim petition that the deceased was a driver and earning Rs.3,000/- per month and was contributing the same to the family. He was aged about 23 years as on the date of accident.

5. A detailed counter affidavit was filed by the respondents disputing the age and income of the deceased. It was further contended that there was no negligence on the part of the driver of the Tanker.

6. The Tribunal, after considering the oral and documentary evidence on record, granted a compensation of Rs.2,70,000/-.

7. Being aggrieved as to the quantum of compensation awarded by the Tribunal, the claimants have filed this appeal for enhancement of compensation. So, the appreciation of evidence would be with respect to the quantum alone.

8. Heard learned counsel for both the parties and perused the record.

9. It is contended by the learned counsel for the claimants that the Tribunal has erred in not considering the income of the deceased as Rs.3,000/- per month and prayed to consider the said income and apply appropriate multiplier and also to grant future prospects and amounts under other Notional heads while calculating the compensation and prayed to allow the appeal.

10. On the other hand, the learned counsel for the respondent-Insurance Company contended that there is no error or irregularity in the orders passed by the Tribunal so as to interfere with the same and therefore, prayed to dismiss the Appeal confirming the judgment of the Tribunal.

11. On perusal of the entire evidence on record, there is no dispute as to the manner of the accident which occurred on 03.12.2001. PW-1 is the wife of the deceased. Claimant Nos.2 to 4 are the son and parents of the deceased. In the absence of proper evidence, the Tribunal has taken the income of the deceased as Rs.2,000/- per month.

12. Admittedly, the age of the deceased as on the date of the accident was 23 years as per Exs.A-3 and A-4 i.e. inquest and postmortem reports of the deceased respectively.

13. The Hon'ble Apex Court in the case of **Ramachandrappa v. Royal Sundaram Alliance Insurance Co. Ltd**[1]., taken the income of the deceased/coolie, as Rs.4,500/- per month. Though it is contended that the deceased was a driver, there is no documentary evidence on record to prove the occupation of the deceased as driver. Even the driving licence of the deceased was not placed before the Tribunal to consider the deceased as driver. Therefore, taking into consideration the above said proposition, the

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[1] (2011) 13 SCC 236

income of the deceased is fixed as Rs.4,500/- per month, even assuming the deceased as a coolie.

14. As already stated supra, the deceased was aged about 23 years as on the date of the accident and the income of the deceased can be taken as Rs.4,500/- per month. If 40% future prospects is added, it would come to Rs.6,300/- (Rs.4,500+1800). As the claimants are four in number, 1/4th has to be deducted towards his personal expenses. Thus, his contribution towards family would come to Rs.4,725/-. As per the judgment of Hon'ble Supreme Court in **Smt.Sarla Verma v. Delhi Transport Corporation & another**[2], the multiplier applicable is '18' for the age group of 21 to 25 years. If the annual income and multiplier '18' are applied, then, the loss of earnings of the deceased would be Rs.10,20,600/- (Rs.4,725 X 12 X 18).

15. As per the judgment of Hon'ble Supreme Court in **National Insurance Co. Ltd. v. Pranay Sethi & others**[3], wife, son and parents of the deceased are entitled to Rs.40,000/- each towards

[2] (2009) 6 SCC 121
[3] 2017 ACJ 2700

consortium and Rs.15,000/- towards funeral expenses and another Rs.15,000/- towards loss of estate.

16. Thus, the claimants are entitled to the compensation under the following heads;

1.	Loss of dependency	Rs.10,20,600/-
2.	Funeral expenses	Rs.15,000/-
3.	Consortium (Rs.40,000/- each to the wife, son and parents of the deceased)	Rs.1,60,000/-
4.	Loss of estate	Rs.15,000/-
	TOTAL	**Rs.12,10,600 /-**

17. Accordingly, the appeal is allowed, granting a total compensation of Rs.12,10,600/- with costs and interest at the rate of 7.5% per annum from the date of petition till the date of realization, payable by respondent Nos.1 and 2 jointly and severally within one month from the date of receipt of a copy of this order. Claimant No.2 is the minor son of the deceased as on the date of filing of the claim petition i.e. in the year 2002 and now he has become major. Therefore, all the appellants are equally entitled for the said amount and they are permitted to withdraw their respective shares, on payment of deficit Court fee.

Pending miscellaneous applications, if any, shall stand closed.

G.ANUPAMA CHAKRAVARTHY, J

Date: 30.11.2022

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