THE HON'BLE JUSTICE M.G. PRIYADARSINI

M.A.C.M.A. No. 72 of 2014

JUDGMENT:

Being not satisfied with the quantum of compensation awarded by the Chairman, Motor Accident Claims Tribunal-cum-IX Additional Chief Judge, City Civil court, Hyderabad (for short, the Tribunal) in O.P.No.1780 of 2010, dated 17.07.2013, the appellants/petitioners preferred the present appeal seeking enhancement of the compensation.

2. The facts in issue are under:

3. The appellants filed a petition under Section 166 of the Motor Vehicles Act, 1988 and Rule 514 of A.P. M.V. Rules, 1964 read with Section 140 of A.P. M.V.Act claiming compensation of Rs.4,00,000/- on account of the death of Shankaramma in a motor accident that occurred on 28.05.2010 at about 12.00 hours. According to the appellants, when the deceased and her family members went to Tirupathi and after visiting Lord Sri Venkateshwara, while they were returning to Hyderabad in a Qualis Bearing No. AP 29D 0046 when they reached the outskirts of Addakal Village, on the bridge No.120/4, N.H.No.7, due to rash and negligent driving of the driver of the Qualis, the said car dashed the stone guards and turned turtle and fell down from the

bridge. Consequently, the deceased fell down from the bridge and sustained grievous injuries and fracture on the vital part of the body. Immediately she was shifted to SVS hospital, Mahaboobnagar for treatment, but unfortunately the deceased succumbed to the injuries while undergoing treatment. According to the petitioners, the deceased was aged 45 years, and was earning Rs.3,000/- per month. Therefore, they laid the claim against the respondents for Rs.4,00,000/- towards compensation under different heads.

4. Respondent No.1 is the owner and the Respondent No.2 is the insurer of the crime vehicle.

5. Before the tribunal, while the respondent No.1 remained ex parte, the respondent No.2, insurance company, resisted the claim by filing counter and denying the manner of accident, age and reasons for the death of the deceased. The respondents further stated that they had not issued any policy to the alleged crime vehicle at the time of accident, R1 wilfully and knowingly handed over the possession of the vehicle to his driver. The driver does not possess valid and effective driving license at the time of the accident. It is further contended that as per Section 134(c) of M.V. Act 1988, it is mandatory duty of the insured/respondent No.2

herein to furnish the particulars of the policy, date, time and place of accident, particulars of driving license but the insured/second respondent herein has not complied with statutory demand. Hence the respondent No.2 is not liable to pay any compensation. It is also contended that the compensation claimed is excessive and prayed to dismiss the claim-petition.

6. After considering the claim, counter and the evidence, both oral and documentary brought on record, the tribunal has allowed the O.P. in part awarding a sum of Rs.3,27,000/- with interest @7% in favour of petitioners against R1 and R2, from the date of petition till the date of realization. Seeking further enhancement of compensation, the claimant approached this Court with the present appeal.

7. The only contention of the learned counsel for the appellants is that as per the principles laid down by the Apex Court in ***National Insurance Company Limited Vs. Pranay Sethi and others***[1], the tribunal ought to have added future prospects at 25% to the established income of the deceased. Even the income of the deceased assessed by the tribunal at Rs.3,000/- per month is

[1] 2017 ACJ 2700

meager. Therefore, it is argued that the income of the deceased may be taken into consideration reasonably for assessing loss of dependency by adding future prospects and prayed to enhance the compensation.

8. Per contra, the learned Standing Counsel for the Insurance Company submits that the tribunal has rightly assessed the income of the deceased and has rightly awarded the compensation which needs no interference by this Court.

9. The finding of the Tribunal with regard to the manner in which the accident took place has become final as the same is not challenged either by the owner or insurer of the vehicle.

10. The short question that arises for consideration is "*whether the compensation awarded by the Tribunal is just and equitable*"?

11. So far as income of the deceased is concerned, though the tribunal has fixed the monthly income of the deceased at Rs.3,000/-, since the said income is too meagre compared with the prevailing minimum rate of wages at the relevant point of time, this Court is inclined to fix the monthly income of the deceased at Rs.4,500/-.

12. Coming to the aspect of future prospects, this point has already been considered by the Apex Court in ***Pranay Sethi*** (Supra), and it has been held that the benefit of future prospects cannot be denied to a self-employed person. The Apex Court has further held that where the deceased was below the age of 40 years, an addition of 40% of the established income; where the deceased was between 40 to 50 years, an addition of 25% of the established income; and where the deceased was between 50 to 60 years, an addition of 10%, should be granted towards future prospects. According to Ex.A2 the age of deceased at the time of death, was 50 years, an addition of 25% of the established income should be granted. The monthly income of the deceased is taken as Rs.4,500/-. Thus, by adding 25% to the income of the deceased, the future monthly income comes to Rs.5,625/- (Rs.4,500/- + Rs.1,125/- being 25% thereto). Since the number of dependants are two, after deducting 1/3rd therefrom towards personal expenses of the deceased, the net monthly contribution to the family comes to Rs.3,750/- and the annual contribution comes to Rs.45,000/-.

13. Since the deceased was aged about 50 years at the time of the accident, in view of the judgment of the Apex Court in ***Sarla***

Verma v. Delhi Transport Corporation[2]**,** the suitable multiplier would be '13'. Applying multiplier '13', the total loss of dependency would be Rs.5,85,000/- (Rs.45,000/- x 13). That apart, as per the decision of the ***Pranay Sethi*** (supra), the claimants are entitled to Rs.33,000/- under the conventional heads. In addition thereto, as per the decision of the Apex Court in **Magma General Insurance Company Limited v. Nanu Ram @ Chuhru Ram and others**[3], the claimants are granted Rs.40,000/- each towards parental consortium. Thus, the claimants are entitled for the total compensation of Rs.6,98,000/-.

14. In the result, the appeal is allowed by enhancing the compensation from Rs.3,27,000/- to Rs.6,98,000/-. The enhanced amount shall carry interest at 7.5% per annum from the date of order passed by the tribunal till the date of realization. The enhanced amount shall be apportioned between the claimants in the same proportion as was ordered by the tribunal. However, the claimants are directed to pay deficit court fee on the enhanced amount. Time for deposit of the amount is two months. On such deposit, the claimants are permitted to withdraw the said amount. There shall be no order as to costs.

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[2] 2009 ACJ 1298 (SC)
[3] (2018) 18 SCC 130

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE M.G. PRIYADARSINI

24.11.2022
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