HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

M.A.C.M.A. No.3623 of 2014

JUDGMENT:

Being dissatisfied with the compensation granted by the Court of the I Additional Metropolitan Sessions Judge-cum-XV Additional Chief Judge, in O.P. No.190 of 2010, dated 07.03.2013, the claimants filed the present appeal seeking enhancement of compensation.

2. For the sake of convenience, hereinafter, the parties shall be referred to as per their array before the Tribunal.

3. The facts of the case are that on 14.09.2009, the deceased was proceeding from Kompally towards Medchal on his motor cycle bearing No. AP 11 K 2893 and when he reached near Old Classic Daba on N.H. No.7, Medchal, Ranga Reddy District, one A.P.S.R.T.C bus bearing No. AP 28 Z 2947 proceeding from Hyderabad towards Toopran, the driver of the bus drove with high speed in a rash and negligent manner and dashed against the motor cycle of the deceased. As a result, the deceased fell down and sustained; (1) grievous and serious head injuries (2) fracture to both

hands and legs and (3) other multiple injuries all over the body. Immediately, he was shifted to Balaji Hospital, Kukatpally, where he succumbed to the injuries while undergoing treatment.

3. Further it is averred that the deceased was aged 32 years, as on the date of the accident, and he was a sales representative/ Manager in M/s. Venkata Sai Wine Shop, Julapally, Karimnagar District and thereby earning an amount of Rs.10,000/- per month, and was contributing entire earnings for the welfare of his family. With the death of the deceased, they lost their sole breadwinner, children lost the love and care of their father and facing financial crunch. With these averments, they filed claim petition under Sections 166 and 163-A of the Motor Vehicles Act, 1988, claiming compensation of Rs.10,00,000/-.

4. Considering the oral and documentary evidence on record, the Tribunal taking the monthly income of the deceased as Rs.6,000/- and by taking 1/4th towards personal expenses and by applying the multiplier of “16” as age of the deceased was considered between 31 and 35 and applied the multiplier “16” and thereby granted Rs.8,64,000/- towards loss of dependency. The tribunal further

granted an amount of Rs.5,000/- towards Funeral expenses, Rs.15,000/- towards loss of estate and Rs.15,000/- towards loss of consortium i.e., first complainant who is wife of the deceased and Rs.15,000/- towards medical expenses and thus, in all the tribunal allowed partly in O.P. No.190 of 2010, dated 07.03.2013 with proportionate costs awarded compensation of Rs.9,14,000/- (Rupees Nine Lakhs Fourteen Thousand only) with interest at the rate of 7.5% per annum.

5. As stated above, not being satisfied with the compensation, the claimants filed the present appeal seeking enhancement.

6. Heard the learned counsel for the appellant-claimant and the learned Standing Counsel for the respondents-Andhra Pradesh State Road Transport Corporation. Perused the material available on record.

7. As per the case of the claimants, the deceased was working as Sales Representative-cum-Manager in M/s. Venkata Sai Wine Shop, Julapally, Karimnagar District and that he was also having partnership in the said wines shop and he used to earn an amount of

Rs.10,000/- per month as salary. Further the case of the claimants is that the deceased was also getting an additional amount of Rs.10,000/- as income from that shop. Thus, their case is that he was getting Rs.20,000/- per month. In proof of their claim, they filed Ex.A-15 which is an unregistered partnership deed and Ex.A-16 which is salary certificate of the deceased was issued by the license holder stating that the deceased was being paid an amount of Rs.10,000/- per month. However, with regard to claim of the deceased that he was also a partner in the wines shop except the unregistered partnership no other document is filed. The deceased is aged 32 years as per Ex.A-3 inquest report. Therefore, having regard to the facts and circumstances of the case and considering Ex.A-16 salary certificate of the deceased and in the absence of any rebuttal evidence adduced by the respondents, I am of the considered view that the monthly income of the deceased can be taken as Rs.10,000/- per month. In these circumstances, the amount of Rs.6,000/- per month taken by the tribunal towards salary of the deceased is meager and hence the same is accordingly enhanced.

8. If the monthly income of the deceased as Rs.10,000/- , then his annual income is 1,20,000/-. As per Ex.A-3 and A-4, which are inquest and post mortem reports respectively, age of the deceased is shown as 32 years. As per the judgment of Apex Court in **NATIONAL INSURANCE COMPANY LTD vs. PRANAY SETHI**, and addition of 40% of the established income shall be made towards future prospect to the age group of the deceased. 40% of Rs.1,20,000/- comes to Rs.1,68,000/- (1,20,000+48,000=1,68,000). As per the Apex Court in **SARLA VERMA vs. DELHI TRANSPORT CORPORATION**[1], held that where the number of dependent family members of the deceased are 4 to 6, the deduction towards personal and living expenses, shall be 1/4th. In the present case, the claimants, who are dependents of the deceased are five in number. Therefore, the deductions towards personal and living expenses from out of the income of the deceased, shall be 1/4th. Accordingly, if 1/4th deducted from Rs.1,68,000/- comes to Rs.1,26,000/- (i.e., 1,68,000-42,000= 1,26,000) which is the annual income arrived at by this Court, the

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[1] (2009)6 SCC 121

amount that the deceased would be contributing to his family will come to Rs.1,26,000/- per annum.

9. For the age group of deceased, who is 32, the appropriate multiplier as per column No.4 of the table given in the judgment of the Apex Court in Sarla Verma (supra), is ‘16’. Thus, the claimants are entitled to an amount of Rs.20,16,000/- (Rs.1,26,000/- x 16= 20,16,000) towards loss of dependency.

10. As per the judgment of the Apex Court in Pranay Sethi’s case (Supra), the claimants are entitled to Rs.77,000/- towards conventional heads. The amount awarded by the Tribunal under the conventional heads noted above, is accordingly modified as per the judgment of the Apex Court. Further in view of the judgment of the Apex Court in ***Magma General Insurance Company Limited v. Nanu Ram @ Chuhru Ram and others[2].*** The claimants are 2 and 3 who are two minor children of the deceased, are granted an amount of Rs.40,000/- each i.e., Rs.80,000/- towards parental consortion. Thus, the claimants are entitled to an amount of Rs. 21,73,000/- (20,16,000+77,000+80,000=21,73,000)

[2] (2018) 18 SCC 130

10. In the result, the M.A.C.M.A. is allowed by enhancing the compensation amount awarded by the Tribunal from Rs.9,14,000/- to Rs.21,73,000/**-.** The enhanced amount shall carry interest at 7.5% per annum from the date of claim petition till the date of realization, payable by respondent Nos.1 and 2 jointly and severally liable to pay the compensation. The claimant shall pay the deficit court fee.

Miscellaneous petitions, if any pending, shall stand closed. No order as to costs.

JUSTICE M.G.PRIYADARSINI

30.11.2022
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