

THE HONOURABLE SMT.JUSTICE P.MADHAVI DEVI

M.A.C.M.A.No. 1132 OF 2017

ORDER:

This appeal is filed by the dependants of the deceased seeking enhancement of compensation awarded by the Motor Vehicle Accidents Claims Tribunal-Cum-XXV Additional Chief Judge, City Civil Court, Hyderabad, in M.V.O.P.No.2597 of 2013, dated 29.11.2016.

2. The appellants are dependants of the deceased who died in the motor vehicle accident that occurred on 21.06.2013. The deceased was 29 years of age and was working as an electrician. The claimants have sought a compensation of Rs.25,00,000/-, whereas Tribunal has granted compensation of Rs.18,37,000/-. Seeking enhancement of the compensation, the present appeal is filed.

3. The Learned counsel for claimants submits that deceased is an employee of G.R.Developers and his monthly income is Rs.21,000/- and that they have given salary certificate to that effect. He further submits that the said certificate has not been taken into consideration by the Tribunal and it has adopted a sum of Rs.7,000/- only as his monthly income and therefore, this has to be enhanced accordingly.

4. Learned counsel for Insurance Company submits that the Tribunal has considered the evidence of Pw1, wherein the employment of the deceased was confirmed with FIR as well as Inquest report. He further submits that the Tribunal has granted reasonable compensation to the claimants and therefore, no interference is called for.

5. Having regard to the fact that the deceased was 29 years of age and was working as an electrician which was confirmed by the G.R.Developers and was admittedly receiving salary from them, this Court is of the opinion that income admitted by the Company can be taken into consideration. However, Tribunal has considered that the deceased has filed his IT returns and his income was shown as Rs.7,000/- per month and therefore adopted the same for awarding the compensation. However, this Court finds that the deceased was a skilled worker i.e., electrician and he was an employee of G.R.Developers and was also working as a retainer in an apartment, there is every possibility of his working in the apartment as well whenever his services are required by flat owners and therefore, this Court deems it fit and proper to consider a sum of **Rs.10,000/-** as monthly income of the deceased (including his salary).

6. As regards the compensation for loss of future prospects, the deceased was only 29 years of age and therefore, the compensation under the head of future prospects is to be adopted @ 40% and the compensation is modified accordingly.

7. It is noticed that the compensation awarded under the heads of spousal, parental and filial consortium is not in accordance with the judgment of Hon'ble Supreme Court in the case of **Magma General Insurance Company Limited Vs. Nanu Ram Alias Chuhru Ram and Others**¹. Further, compensation under conventional heads as per **National Insurance Company Limited Vs. Pranay Sethi and others**² is also to be allowed.

8. In the light of the above mentioned discussion, the claimants are entitled to the following amounts:

Sl.No.	Head	Compensation awarded
1.	Income (10,000 x 12)	Rs.1,20,000/- per month.
2.	Future Prospects @ 40%	Rs.48,000/- per annum.
3.	Deduction towards personal expenses	Rs.42,000/- i.e., 1/4 th of Rs.1,68,000/-.
4.	Total Income	Rs.1,26,000/- i.e., 3/4 th of Rs.1,68,000/-.
5.	Multiplier	17

¹ (2018) 18 SCC 130

² (2017) 16 SCC 680

6.	Loss of future income	Rs.21,42,000/-.
7.	Funeral expenses	Rs.16,500 (15,000 + 10% thereof).
8.	Loss of estate	Rs.16,500 (15,000 + 10% thereof).
9.	Loss of spousal consortium	Rs.44,000 (40,000+10% thereof) payable to appellant No.1.
10.	Loss of parental consortium	Rs.88,000 (40,000+10% thereof) each payable to appellants No.2 and 3.
11.	Loss of filial consortium	Rs.44,000 (40,000+10% thereof) payable to appellant No.4.
	Total Compensation awarded	Rs.23,51,000/- along with interest @ 7.5% per annum from the date of filing of the claim petition till payment.

9. In the result, the award dated 29.11.2016 in M.V.O.P.No.2597 of 2013 on the file of the Motor Accidents Claims Tribunal-cum-XXV Additional Chief Judge, City Civil Court, Hyderabad, is modified by awarding a total compensation of Rs.23,51,000/- (Rupees twenty three lakhs and fifty one thousand only) with costs and interest @ 7.5% per annum thereon from the date of the claim petition till the date of realization against respondents No.1 and 2 jointly and severally.

The compensation awarded is apportioned among the appellants/claimants as under:

Appellant No.1 (wife)	: Rs.10,00,000/-
Appellant No.2 (minor son)	: Rs.5,00,000/-.
Appellant No.3 (minor son)	: Rs.5,00,000/-.
Appellant No.4 (mother)	: Rs.3,51,000/-.

The respondents are directed to deposit the compensation amount within a period of 60 days from the date of receipt of a copy of this judgment, after giving credit to the deposit of amount, if any, already made. On such deposit, claimants/appellants No.1 to 4 are permitted to withdraw their respective shares of compensation without furnishing any security. As the claimants/appellants No.2 and 3 are minors, their share of compensation shall be deposited in any nationalized bank till they attain majority.

10. The MACMA is accordingly partly allowed without costs.

11. Pending miscellaneous petitions, if any, pending in this MACMA shall stand closed.

JUSTICE P.MADHAVI DEVI

Dated: 01.07.2022
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