

HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

M.A.C.M.A. No.1314 of 2015

JUDGMENT:

Not being satisfied with the quantum of compensation awarded by the Chairman, Motor Accident Claims Tribunal-cum-II Additional Chief Judge, City Civil Courts, Hyderabad in O.P. No.375 of 2013 dated 15.07.2014, the present appeal is filed by the claimants-Petitioner Nos.1 and 2.

2. According to the petitioners, on 08-10-2012 at about 5.00 p.m. while the deceased almost crossed the road opposite to Saroornagar police station, in the meanwhile bus bearing No. AP.07.U.9089 being driven by its driver came in rash and negligent manner at high speed and dashed the deceased causing his spot death. Thus, the petitioners are claiming compensation of Rs.20,00,000/- under various heads.

3. Though respondent No.1 appeared before the Court, he did not choose to file any counter. Respondent No.2 filed counter disputing the manner of accident, age, avocation and income of the deceased and further contended that the claim is highly excessive.

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

- 1) Whether the accident took place due to the rash and negligent driving of the vehicle bearing No. AP.07.U.9089 causing death of Meesala Ramesh?
- 2) Whether the petitioners are entitled for compensation, if so, to what extent and from whom?
- 3) To what relief?

5. In order to prove the issues, PWs.1 and 2 were examined and got marked Exs.A-1 to A-5. On behalf of respondent No.2, none were examined and Ex.B1 got marked.

6. On considering the oral and documentary evidence on record, the Tribunal has awarded an amount of Rs.6,68,000/- 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 the date of deposit, as against the claim of Rs.20 lakhs laid by the appellants-claimants for the death of the deceased-Meesala Ramesh in a road accident that occurred on 08.10.2012.

7. Heard the learned counsel for the appellants-claimant Nos.1 and 2 and the learned Standing Counsel for the second respondent-Insurance Company. Perused the material available on record.

8. The learned counsel for the appellants-claimants has submitted that although the claimants, by way of evidence of P.W.1 and Exs.A.1 to A.5, established the fact that the death of the deceased-Meesala Ramesh was caused in a motor accident, the Tribunal awarded meager amount.

9. The learned Standing Counsel appearing on behalf of respondent No.2 sought to sustain the impugned award of the Tribunal contending that considering the learned Tribunal has awarded reasonable compensation and the same needs no interference by this Court.

10. With regard to the manner of accident, there is no dispute. However, the Tribunal has rightly held that the accident took place due to the rash and negligent driving of the offending bus by its driver.

11. Coming to the quantum of compensation, according to the petitioners, the deceased was a cashier in a petrol bunk and getting an amount of Rs.15,000/- per month and contributing the same to his family. As no income proof is filed, the Tribunal had taken the income of the deceased at Rs.4,500/- per month and awarded the compensation of Rs.6,68,000/-. However, future prospectus was not considered by the Tribunal. Thus, in 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 25 years. Then it comes to Rs.6,300/- (4,500 + 1800 = 6,300/-). Since the deceased was unmarried person, 50% of his income is to be deducted towards his personal and living expenses. Then the contribution of the deceased would be Rs.3,150/- per month. Since the deceased was aged about 25 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

¹ 2017 ACJ 2700

² 2009 ACJ 1298 (SC)

Rs.3,150/- x 12 x 18 = **Rs.6,80,400/-**. In addition thereto, under the conventional heads, the claimants are granted **Rs.33,000/-** as per the decision of the Apex Court in **Pranay Sethi** (supra). The claimant Nos.1 and 2 are entitled for **Rs.40,000/- each** towards filial consortium as per **Magma General Insurance Company Limited v Nanu Ram alias Chuhru Ram**³. Thus, in all, the compensation is awarded as follows:

Sl.No.	Description	Amount awarded
1.	Loss of dependency (Rs.3,150/- x 12 x 18 = Rs.6,80,400/-)	Rs.6,80,400-00
2.	Conventional heads	33,000-00
3.	Filial consortium	Rs.80,000-00
	Total:	Rs.7,93,400-00

12. With regard to the liability, the Tribunal rightly held that, since the policy was in force as on the date of accident, the respondent Nos.1 and 2 are jointly and severally liable to pay the compensation to the petitioners.

13. In the result, the M.A.C.M.A. is partly allowed by enhancing the compensation amount awarded by the Tribunal

³ (2018) 18 SCC 130

from Rs.6,68,000/- to **Rs.7,93,400-00**. The enhanced amount shall carry interest at 7.5% 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. Since claimant No.3 is died, the amount apportioned to her, shall be paid to her legal heirs i.e. appellants 1 and 2 equally. On such deposit, 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

22.09.2022
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