THE HON'BLE SMT. JUSTICE M.G. PRIYADARSINI

M.A.C.M.A. No. 2795 of 2018

JUDGMENT:

This appeal is preferred by the appellants, who are the claimants before the Court below, assailing the order and decree of the XIII Additional District and Sessions Judge Ranga Reddy District at L.B Nagar, Hyderabad (for short, 'the tribunal') passed in O.P.No.1041 of 2015, dated 30.12.2017.

2. For the sake of convenience, the parties will be hereinafter referred to as arrayed before the Tribunal.

3. The facts, in issue, are as under:

The claimants filed a petition under Section 166 of Motor Vehicles Act, 1988 claiming compensation of Rs.15,00,000/- for the death of Kolati Georj (hereinafter referred as 'deceased') in a motor accident. It is stated that while the deceased was proceeding by walk on NH 44 in front of Papaji Dhaba, Kompally, one TATA Ace bearing No.TS 07 UB 4583 proceeding from Suchitra towards Kompally being driven in a rash and negligent manner, dashed the deceased, due to which he received severe injuries to his head and chest and immediately, he was shifted to Gandhi Hospital, Secunderabad and while undergoing treatment, he succumbed to the said injuries on 01.11.2015 at 5.45 AM. According to the petitioners the deceased was aged 45 years at the time of accident and he was working as private employee in Shiva Sai Scrap Merchant Association, Ranga Reddy District and earning a sum of Rs.15,000/- per month. Due to the sudden demise of the deceased, the petitioners lost their source of income. Therefore, the petitioners filed the OP claiming a sum of Rs.15,00,000/- towards compensation against respondents.

4. Before the tribunal, while the respondent No.1 remained ex parte, respondent No.2, insurance company, filed counter denying the manner in which the accident took place, including the age, avocation and income of the deceased. It is further contended that the mandatory provisions of Motor Vehicles Act are not complied with. As such, this respondent seeks protection under Section 147 and 149 of Motor Vehicles Act and also stated that the quantum of compensation claimed is excessive, exorbitant and prayed to dismiss the petition.

5. Considering claim, counter and the oral and documentary evidence available on record, the tribunal has awarded an amount of Rs.3,83,825/- with interest @ 7.5% per annum from the date of petition till the date of

realization. Challenging the quantum of compensation, the claimants preferred the present appeal.

6. Heard and perused the record.

7. The only contention of the learned counsel for the appellants is that the Tribunal failed to see that the amount claimed by the appellants is very low side and as such not only the entire amount claimed by the appellants but just compensation should have been granted and that the annual income of the deceased is taken as only Rs.30,000/- which is meagre.

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 annual income of the deceased at Rs.30,000/-, 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.5,000/-.

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. As the deceased fall under the age group of the 56 to 60 years 10% future prospects needs to be added to his established income. Therefore, monthly income of the deceased would come to Rs.5,500/-(Rs.5,000/- + 10%) and the annual income of the deceased would come to Rs.66,000/- and only the petitioner No.1 being the wife of the deceased, can be treated as dependent on the deceased.

As such, 50% of the income i.e Rs.33,000/- need to be deducted from the income of the deceased. Thus, the annual income of the deceased would come to Rs.33,000/- .

13. Since the deceased was aged about 56 to 60 years at the time of the accident, in view of the judgment of the Apex Court in ***Sarla Verma v. Delhi Transport Corporation***[1]**,** the suitable multiplier would be '9'. Applying multiplier '9', the total loss of dependency would be Rs.2,97,000/- (Rs.33,000/- x 9). That apart, as per the decision of the ***Pranay Sethi*** (supra), the claimants are entitled to Rs.77,000/- under the conventional heads. The Tribunal as awarded Rs.1,00,000/- towards loss of consortium, Rs.25,000/- towards funeral expenses and Rs.1,00,000/- towards loss of love and affection, and Rs.3,575/- towards medical expenses of the deceased. Thus, in all the claimants are entitled to Rs.6,02,575/- towards compensation.

14. In the result, the appeal is partly allowed by enhancing the compensation from Rs.3,83,825/- to Rs.6,02,575/-. 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

---

[1] 2009 ACJ 1298 (SC)

shall be apportioned between the claimants in the same proportion as was ordered by the tribunal. 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.

Miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.G. PRIYADARSINI

23.12.2022
PSW

HON'BLE SMT. JUSTICE M.G. PRIYADARSINI

M.A.C.M.A. No. 2795 of 2018

23-12-2022
PSW