

THE HON'BLE SMT. JUSTICE P.MADHAVI DEVI

M.A.C.M.A. No.1507 of 2016

ORDER

1. This Motor Accidents Civil Miscellaneous Appeal is filed by the claimants against the finding of the Tribunal in M.V.O.P.No.2683 of 2014, dated 30.01.2016. The claimants submitted that the deceased was 21 years old and had done ITI course with electrical group and was also working as an Electrician and claimed Rs.20,000/- as his possible monthly income, whereas, the Tribunal has fixed only a sum of Rs.3,000/- as his monthly income on the ground that the deceased was working as a labourer for loading and unloading of material. It is submitted that as the deceased had ITI certificate and was working as an electrician, the Tribunal should have considered at least Rs.10,000/- per month as his monthly income and awarded compensation accordingly. For this proposition, he relied upon the judgment of Hon'ble Andhra Pradesh High Court in the case of ***Pramila vs L.S.Manjunath and other***¹, wherein, an ITI bachelor holding an ITI certificate working as

¹ 2019 ACJ 2236

electrician was considered to be earning Rs.10,000/- per month.

2. The learned Standing Counsel for the Insurance Company, however, submits that no evidence has been filed by the claimants in proof of the deceased working as an electrician and therefore, the Tribunal has considered Rs.3,000/- per month, which is reasonable income of a labourer.

3. Having regard to the rival contentions and material on record, this Court finds that the deceased having possessed certificate from ITI with electrical group, there is every possibility of him working as an electrician if he survived from the accident. Therefore, this Court deems it fit and proper to consider a sum of Rs.10,000/- per month as his monthly income and compensation is to be awarded accordingly. In view of the judgment of the Hon'ble Supreme Court reported in ***National Insurance Company Limited vs Pranay Sethi***², compensation towards loss of future prospects at 40% is to be awarded instead of 25% as awarded by the Tribunal and the same is awarded accordingly.

² (2017) 16 SCC 680

4. As regards the compensation awarded under other conventional head i.e., funeral expenses and loss of estate and also other compensation such a consortium to be awarded as per **Magma General Insurance Company Limited vs Nanu Ram Alias Chuhru Ram**³, this Court awards Rs.15,000/- under each head of the funeral expenses and loss of estate with 10% enhancement thereon and Consortium @ Rs.40,000/- to each of the petitioners 1 and 2 being filial consortium with 10% enhancement thereon. The compensation shall be paid to the claimants, with interest @ 7.5% per annum from the date of the claim petition till the date of payment. While calculating compensation, since the deceased was a bachelor and aged 21 years of age at the time of accident, 50% of the same has to be deducted towards his personal expenses. The appeal is accordingly partly allowed.

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

1.	Monthly income of the deceased	Rs.10,000.00
2.	Compensation towards loss of Future prospects @ 40%	Rs.4,000.00

³ (2018) 18 SCC 130,

3.	Total monthly income comes to	Rs.14,000.00
4.	50% is to be deducted towards personal and living expenses as the deceased was a bachelor	Rs.7,000.00
5.	Loss of dependency Rs.7,000/- x 12 x 18	Rs.15,12,000.00
6.	Loss of estate and funeral expenses Rs.15,000/- each with 10% enhancement	Rs.33,000.00
7.	Consortium at Rs.40,000/- each with 10% enhancement payable to appellants 1 and 2	Rs.88,000.00
	Total:	16,33,000.00

6. Accordingly, M.A.C.M.A. is allowed in part. The compensation amount awarded by the Tribunal is hereby enhanced from Rs.5,20,000/- to Rs.16,33,000/- with costs subject to the claimants paying court fee on the enhanced compensation. The compensation amount shall carry interest at 7.5% p.a from the date of the claim petition till the date of payment. The Insurance Company is directed to deposit the entire compensation within a period of two months from the date of receipt of a copy of this judgment. On deposit, the claimants are permitted to withdraw the same without furnishing any security in the following shares :

Appellant No.1 (Mother) Rs.7,33,000/-

Appellant No.2 (Father) Rs.7,00,000/-

Appellant No.3 (Sister) Rs.1,00,000/-

Appellant No.4 (Sister) Rs.1,00,000/-

There shall be no order as to costs.

7. Miscellaneous petitions, if any, shall stand closed.

JUSTICE P.MADHAVI DEVI

Date: 23.06.2022.

Krl.



THE HONOURABLE SMT JUSTICE P. MADHAVI DEVI

M.A.C.M.A. No.1507 of 2016

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