

THE HONOURABLE SRI JUSTICE A.SANTHOSH REDDY

M.A.C.M.A.No.788 OF 2016

JUDGMENT:

This appeal is directed against the award dated 03.07.2015 in O.P.No.139 of 2014, on the file of the Motor Accidents Claims Tribunal-cum-IX Additional District Judge, Kamareddy (for short 'the Tribunal'), wherein the said claim application filed by appellants herein seeking compensation was allowed-in-part, awarding Rs.2,00,000/- with interest at 7.5% per annum from the date of petition.

2. Heard the learned counsel for the appellants and the learned counsel for the 2nd respondent-claimant. Perused the material on record.

3. The appellants herein filed claim application seeking compensation of Rs.4 lakhs on account of death of the deceased Neerudi Balaiah Ramavath @ Angoth Penti, who died in a motor vehicle accident that occurred on 06.04.2014 at 04:00 p.m. According to the claimants, on that day, the deceased was travelling in an auto bearing No.AP 25 X 4024 from Yellareddy to

Gopalpet Village and when it reached near Banjara Thanda of Nagireddypet Mandal, the driver of the auto drove the same in a rash and negligent manner, as a result of which, it turned turtle, resulting in the deceased receiving grievous injuries. The deceased was shifted to Sigma Hospital, Secunderbad and from there to Gandhi Hospital, Hyderabad and while undergoing treatment, he succumbed to the same on 09.04.2014. Police, Nagireddypet registered a case in Cr.No.47 of 2014 against the driver of the auto for the offence punishable under Sections 304-A IPC. Claimant No.1 is the wife and claimants 2 and 3 are the son and daughter of the deceased. According to the claimants, the deceased was aged 60 years at the time of accident and was a retired lineman and was also having cattle and vegetable business and earning an income of Rs.15,000/- per month and contributing the same to the family.

4. Respondent No.1-insured remained *ex parte* before the Tribunal. Respondent No.2-insurer filed counter opposing the claim and denying their liability to pay the compensation.

5. On a consideration of the evidence available on record, the Tribunal held that the accident occurred due to the rash and

negligent driving of the auto by its driver. The said finding has become final, as no appeal is preferred by the respondents. The Tribunal further held that the claimant was entitled for a total compensation of Rs.2 lakhs with interest at 7.5% per annum. Aggrieved by the same, the claimants filed the present appeal seeking enhancement of compensation.

6. The only question that arises for consideration is – whether the claimants are entitled to enhancement of compensation, and if so, to what extent?

7. The relationship between the claimants and the deceased is not disputed. Claimant No.1 is the wife and claimants 2 and 3 are the son and daughter respectively of the deceased. According to the claimants, the deceased was aged 60 years and was a retired lineman and also doing cattle and vegetable business earning monthly income of Rs.15,000/-. However, as the claimants failed to produce any reliable evidence, either oral or documentary, the Tribunal had taken into consideration the notional income of the deceased at Rs.3,000/-. Learned counsel for the claimants contends to consider that the deceased was retired lineman and also having

business in cattle and vegetable and his income may be fixed at Rs.5,000/- per month, instead of Rs.3,000/- per month. However, as there is no oral or documentary evidence to substantiate the said contention, the Tribunal had rightly taken into consideration the income of the deceased at Rs.3,000/- per month and after deducting one third towards personal and living expenses, fixed the income of the deceased as Rs.2,000/- per month and Rs.24,000/- per annum and applied the multiplier '7', as the deceased was in the age group of 60 to 65 years as per the post-mortem examination report Ex.P-4 and arrived at the loss of dependency at Rs.1,68,000/- (Rs.24,000/- x 7). The Tribunal had awarded Rs.12,000/- towards loss of consortium, Rs.5,000/- towards funeral expenses and Rs.15,000/- towards funeral expenses. Thus, the Tribunal awarded a total compensation of Rs.2 lakhs.

8. As per the decision of the Hon'ble Apex Court in **NATIONAL INSURANCE COMPANY LIMITED v. PRANAY SETHI AND OTHERS**¹, the claimants are entitled for an amount of Rs.15,000/- towards loss of estate, Rs.40,000/-

¹2017 ACJ 2700

towards loss of consortium and Rs.15,000/- towards funeral expenses. As the accident occurred on 06.04.2014 and the petition was filed for the same relief, as per the above decision, the conventional heads have to be quantified with enhanced percentage basis at 10% for every three years. As the claim petition is filed in the year 2014, the claimants are entitled for 20% enhancement i.e., Rs.84,000/- (Rs.70,000/- + Rs.14,000/- i.e., 20% of Rs.70,000/-). Claimants 2 and 3 being the children of the deceased are entitled to parental consortium at Rs.40,000/- each as per the decision of the Hon'ble Apex Court in **MAGMA GENERAL INSURANCE COMPANY LTD. v. NANU RAM ALIAS CHUHRU RAM AND OTHERS²**'s case. Thus, in all, the claimants are entitled to a compensation of Rs.3,32,000/- (Rs.1,68,000/- + Rs.84,000/- + Rs.80,000/-).

9. In the result, the civil miscellaneous appeal is allowed-in-part. The award of the Tribunal is modified by enhancing the compensation from Rs.2 lakhs to Rs.3,32,000/-. The enhanced amount shall carry interest at 7.5% p.a. from the date of award

² (2018) 18 SCC 130

passed by the Tribunal i.e., 03.07.2015 till the date of realization, payable by respondents 1 and 2 jointly and severally. The amount of compensation shall be apportioned among the claimants in the ratio as ordered by the Tribunal. There shall be no order as to costs.

10. Pending miscellaneous petitions, if any, stand closed.

A.SANTHOSH REDDY, J

11.10.2022

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