

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

MA.CMA.NO.763 OF 2016

JUDGMENT

Being dissatisfied with the compensation awarded by the court of Chairman, Motor Accidents Claims Tribunal – cum – II Additional District Judge at Warangal in MVOP.No.1066 of 2012, the claimants filed the present appeal seeking enhancement of compensation.

2. The deceased is one Puppala Ramesh and claimant No.1 is his wife and claimants 2 and 3 are his children.

3. The case of the claimants is that on 1.1.2012 when the deceased was proceeding along with his friend B.Srinivas on a motor cycle bearing No. AP 36 AN 5467 from Pochammakunta to Naimnagar, and that when the motorcycle reached Police Headquarters, bus bearing No. AP 10 Z 7908 proceedings from Warangal to Kazipet side came in high speed, in a rash and negligent manner, without blowing horn, and tried to overtake the motorcycle driven by B.Srinivas, and in the process, dashed the motorcycle from back side. The deceased Puppala Ramesh, who was travelling as a pillion rider, fell down from the motor cycle and the tyres of the bus ran over the legs of Puppala Ramesh and caused fatal injuries. Immediately, they were shifted to M.G.M. Hospital and from there, he

was shifted to Gandhi Hospital, Secunderabad, and he died while undergoing treatment. Police registered a case in Cr.No.2 of 2012, and after completion of investigation filed charge sheet against the driver of the bus of the Corporation.

4. The further case of the claimants is that the deceased was a Carpenter by profession and was earning an amount of Rs.6,000/- per month and was contributing entire earnings to the family. With the death of the deceased, they lost their source of income, love and affection, and are facing severe hardship. With these averments, they filed claim petition under Section 166 of the Motor Vehicles Act, 1988 claiming an amount of Rs.6,00,000/-.

5. The respondent No.1, which is the Corporation filed counter affidavit and contested the claim.

6. The 2nd respondent, who is the mother of the deceased, filed counter affidavit stating that she is also entitled for compensation for the death of her son in the road accident and sought for awarding compensation to her.

7. The Tribunal considering the evidence of P.W.1, who is the wife of the deceased and also the evidence of P.W.2, who is the eye witness to the accident and who is the rider of the motor cycle on which

the deceased was traveling as a pillion rider, coupled with Exs.A-1 to A-6, held that the accident occurred due to rash and negligent driving of the driver of the bus of the Corporation and that the deceased died due to the said accident.

8. As per Ex.A-1 complaint the deceased was found to be aged 32 years and as per Ex.A-4 death summery, he was found to be aged 34 years. Therefore, the Tribunal has taken his age as 34 years. I do not find any reason to interfere with the same. Further, taking the income of the deceased Rs.4,000/- per month and by deducting 1/4th towards personal expenses and by applying the multiplier of 16, the Tribunal granted an amount of Rs.5,76,000/- towards loss of dependency. Tribunal further granted an amount of Rs.50,000/- to the 1st claimant, who is the wife of the deceased towards loss of consortium; Rs.25,000/- towards funeral and transportation charges, and thus arrived at Rs.6,51,000/-, but however restricted to Rs.6,00,000/-, and apportioned the compensation among the claimants 1 to 3 and respondent No.2. The Tribunal granted interest at the rate of 7.5 per cent per annum from the date of the claim petition till the date of realization.

9. As stated above, seeking enhancement of compensation, the claimants filed the present appeal.

10. Heard Sri Ajay Kumar Maddisetty, learned counsel for the claimants and Sri Gaddam Srinivas, learned Standing Counsel for the respondent No.1 – Corporation.

11. The case of the claimants with regard to accident is already noted above and the Tribunal by considering the evidence of P.W.2, an eye witness, coupled with Exs.A-1 to A-6, recorded finding of fact that the accident occurred due to rash and negligent driving of the driver of the bus of the Corporation and that the deceased died due to the injuries sustained in the accident. In the present appeal, the only dispute is with regard to quantum.

12. In the claim petition it is stated that the deceased was a Carpenter by profession. Ex.A-3 is the inquest report and in the said document, the profession of the deceased is noted as carpenter. The wife of the deceased who was examined as P.W.1 also categorically deposed that the deceased is a carpenter by profession. On behalf the Corporation, no rebuttal evidence was led with regard to the profession of the deceased. In these circumstances, the deceased can be taken as a carpenter by profession and the finding of the Tribunal that there is no evidence with regard to the profession of the deceased, is without any basis, and the same is accordingly set aside.

13. In the present case, the accident has taken place on 1.1.2012 and the deceased succumbed to the injuries caused in the accident and as per the evidence and material on record, the deceased is a Carpenter by profession and his age is taken as 34 years. The Apex Court in the decision reported in **JAGDISH v. MOHAN**¹, considered the accident that took place on 24.11.2011, wherein the deceased, was found to be a carpenter by profession. In these facts and circumstances of the case, the Apex Court held that “12. . . *The appellant was a skilled carpenter and self-employed. The claim of the appellant that his earnings were Rs.6,000/- per month cannot be discarded. This claim cannot be regarded as being unreasonable or contrary to a realistic assessment of the situation on the date of the accident.*”

14. In the present case, the accident occurred on 1.1.2012 and the deceased herein is also a carpenter by profession, and having regard to the facts and circumstances of the case, and following the judgment of the Apex Court (supra), I am inclined to take the monthly income of the deceased as Rs.6,000/- per annum. The income of the deceased taken by the Tribunal at Rs.4,000/-, in the light of the above facts and circumstances of the case, and the judgment of the Apex Court, requires

¹ (2018)4 SCC 571

to be modified accordingly. Thus the annual income of the deceased is taken as Rs.72,000/- (Rs.6,000/- x 12 = Rs.72,000/-).

15. The aged of the deceased is taken as 34 years as on the date of his death. As per the judgment of the Apex Court in ***NATIONAL INSURANCE COMPANY vs. PRANAY SETHI***², for the age group of the deceased, an addition of 40% has to be made to the established income of the deceased. 40% of Rs.72,000/- comes to Rs.28,800/-. Thus the annual income of the deceased including future prospects comes to Rs.1,00,800/-.

16. The number of dependants of the deceased are four in number and hence as per the judgment of the Apex Court in ***SARLA VARMA vs. DELHI TRANSPORT CORPORATION***³, deduction towards living and personal expenses shall be at the rate of 1/4th. If 1/4th is deducted from Rs.1,00,800/-, the income that the deceased would be contributing to his family comes to Rs.75,600/-. The appropriate multiplier to the age group of the deceased as per the same judgment of the Apex Court is '16'. Thus the total loss of dependency comes to Rs.12,09,600/- (Rs.75,600/- x 16 = Rs.12,09,600/-).

17. As per the judgment of the Apex Court in *Pranay Sethi's* case (supra), the claimants are entitled to Rs.77,000/- towards conventional

² AIR 2017 SC 5157

³ (2009)6 SCC 121

heads. The amount granted by the Tribunal under these heads is accordingly modified.

18. Further, the claimants 2 and 3 are minors as on the date of the accident and hence as per the judgment of the Apex Court in **MAGMA GENERAL INSURANCE CO. LTD. v. NANU RAM⁴**, they are entitled to Rs.40,000/- each towards loss of parental consortium. Thus, under these heads, claimants 2 and 3 are entitled to Rs.80,000/-

19. Thus, the amount of Rs.6,000/- granted by the Tribunal is enhanced to Rs.13,66,600/- (Rs.12,09,600 + Rs.77,000/- + Rs.80,000/- = Rs.13,66,600/-) with interest at the rate of 7.5 per cent per annum from the date of the claim petition till the date of realization and the respondent No.1 – Corporation is liable to pay the same.

20. The apportionment of compensation among the claimants and respondent No.2 shall be in the same ratio as ordered by the Tribunal. Further, the deposit of amount in nationalized bank and its withdrawal, shall also be as ordered by the Tribunal.

21. The claimants shall pay the deficit court. Any amount already deposited by the Corporation shall be given credit to. The compensation

⁴ (2018)18 SCC 130

shall be deposited by the respondent No.1 within a period of two months from the date of receipt of a copy of this order.

22. The appeal is accordingly allowed to the extent indicated above.

23. Interlocutory Applications pending, if any, shall stand closed.

No order as to costs.

M.G.PRIYADARSINI,J

DATE:24—11—2022
AVS