HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

AND

HON'BLE SMT. JUSTICE M.G. PRIYADARSINI

M.A.C.M.A. No.224 OF 2022

JUDGMENT: *(Per Hon'ble Dr. Justice Chillakur Sumalatha)*

Heard Sri R.Prasad, learned counsel, who argued on behalf of Sri V.Brahmaiah Chowdary, learned counsel on record for the appellants.

2. During the course of dictating judgment, Sri T.Ramulu, learned counsel, appearing for respondent No.2/Insurance Company, made his appearance.

3. Though Sri Ch.Ramesh Babu, learned counsel, is on record representing respondent No.1 and Sri Devadass Balantha, Advocate is on record representing respondent No.3, they failed to appear and submit their respective contentions.

4. Challenge in this Motor Accidents Civil Miscellaneous Appeal is the order that is rendered by the Motor Accidents Claims Tribunal, Khammam, in M.V.O.P.No.502 of 2017, dated 19.01.2022.

5. The appellants, who are the claimants in the original petition in question, claimed compensation of Rs.1,00,00,000/-. The Tribunal through the impugned order awarded compensation of Rs.47,87,584/-. Aggrieved by the same, the claimants are before this Court through an appeal.

6. Making his submission, learned counsel for the appellants contends that the appellants are entitled for compensation of Rs.1,00,00,000/- but the Tribunal basing on an improper calculation, arrived at a wrong figure and, therefore, the appellants approached this Court. Learned counsel also states that by all the evidence produced, the appellants established the age of the deceased Lingidi Krishnaiah as 49 years and that he had got permanent job. Learned counsel for the appellants also states that the Service Certificate and the Salary Certificates of the deceased were also produced and were marked as Exs.A-5 and A-6 respectively, and the genuineness of those documents was not disputed by the contesting parties, but the Tribunal failed take the actual salary of the deceased Krishnaiah and further, future prospects were not properly added.

7. Having considered the submission thus made, we had gone through meticulously the order rendered by the Tribunal, which is under challenge. As per the material available on record, more particularly, Ex.A-5, it is clear that the deceased Lingidi Krishnaiah was born on 12.09.1967. Further it is not in dispute that the deceased died on 29.04.2017. Therefore, as rightly submitted by the learned counsel for the appellants, the deceased was aged about 49 years by the date of his death.

8. Also by Ex.A-6 Salary Certificates, more particularly, the Salary Certificate for the month of March, 2017, it is clear that the gross salary of the deceased was Rs.52,136/-. Also as per the said documents, the income tax payable by the deceased Krishnaiah was Rs.7,240/-. Therefore, the gross monthly salary of the deceased can be arrived at Rs.44,896/-.

9. The appellants have produced ample evidence to show that the deceased had permanent job. Therefore, as per the decision of the Hon'ble Apex Court in ***National Insurance Company Ltd. Vs. Pranay Sethi and others***[1], 30% of the

[1] (2017) 16 SCC 860

annual income of the deceased ought to have added towards future prospects.

10. In case monthly salary of the deceased is taken as Rs.44,896/-, the annual income of the deceased comes to Rs.5,38,752/- (44,896 X 12). On adding 30% of the annual salary towards future prospects, the annual income together with future prospects comes to Rs.7,00,377/-. The dependants are two in number that is the appellants herein. It is not in dispute that the first appellant is the wife and the second appellant is the daughter of the deceased Krishnaiah. Therefore, as per the decision of the Apex Court in ***Sarla Verma & Ors Vs. Delhi Transport Corporation & Another***[2] ***case,*** 1/3rd of the income of the deceased has to be deducted towards the personal living expenses, which the deceased Krishnaiah would have incurred for himself, had he been alive. Therefore, the annual contribution of the deceased towards the appellant comes to Rs.4,66,918/- (7,00,377-2,33,459). As the deceased died at the age of 49 years, as per the decision that is referred supra, the appropriate multiplier to be applied is '13'.

Thus, loss of dependency comes to Rs.60,69,934/-. Together with the said amount, as per the decision of the Hon'ble Apex Court in ***Pranay Sethi's*** case, 70,000/- to be added under conventional heads. Thus, the compensation, which the appellants are entitled to which can be termed to just compensation is Rs.61,39,934/-. However, the Tribunal has awarded the sum of Rs.47,87,584/-. The respondents failed to state or oppose the grounds urged and the submission made by learned counsel for the appellants across the Bench seeking to award just compensation. Therefore, we are of the view that the compensation that ought to have been awarded by the Tribunal is Rs.61,39,934/-. Thus, we consider it desirable to award the said compensation by allowing the Appeal in part.

11. Resultantly, the appeal is allowed in part. The appellants are awarded compensation of Rs.61,39,934/- together with interest @ 7.5% per annum as awarded by the Tribunal and with costs. Out of the compensation, awarded, the first appellant is entitled to Rs.41,39,934/- and the second appellant is entitled to Rs.20,00,000/-. The appeal is accordingly, disposed of.

12. As a sequel, pending miscellaneous applications, if any, shall stand closed.

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Dr. JUSTICE CHILLAKUR SUMALATHA

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SMT.JUSTICE M.G. PRIYADARSINI

Date: 25.01.2023
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