THE HON'BLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO

MACMA No.3300 OF 2014

JUDGMENT:

Aggrieved by the Order and decree dt.30.08.2013 in O.P No.933 of 2011 passed by the Chairman, Motor Accidents Claims Tribunal-Cum-X Additional Chief Judge, City Civil Court, Hyderabad, (for short "the Tribunal"), the claimants preferred the present appeal seeking enhancement of compensation.

2. The appellants/claimants filed the claim petition before the Tribunal seeking Rs.10,00,000/- as compensation and the Tribunal, vide the aforesaid order, awarded the complete amount of Rs.10,00,000/- with costs and interest @7.5% per annum from the date of petition till the date of realization as prayed for.

3. The appellants/claimants filed I.A. No.2 of 2014 (MACMAMP No.4370 of 2014) before this Court for enhancement of compensation from Rs.10,00,000/- to Rs.25,00,000/- and the said IA was allowed.

4. It is the specific contention of the appellants that the Tribunal failed to award future prospects which is to be added to the salary of the deceased. It is the further contention

of the appellants that the Tribunal failed to arrive at the proper monthly income of the deceased and submitted that the Tribunal ought to have considered Rs.15,252/- per month. However, the learned Counsel for the appellants submitted that Rs.2,400/- along with Rs.252/- is to be deducted towards professional tax, which would mean that the salary for the purpose of calculating loss of dependency is Rs.12,600/- (Rs.15,252 – Rs.2,652). He further contended that the appellants/petitioners are entitled to the benefit of the compensation under the conventional head as per ***National Insurance Company Ltd., V Pranay Sethi***[1]. The appellants are further entitled to the consortium at Rs.40,000/- each as the Tribunal failed to grant the said compensation under the said heads.

5. Heard learned Counsel for the appellants/petitioners and learned counsel for the 2nd respondent/Insurance Company.

6. The monthly earnings of the deceased is to be taken at Rs.12,600/- as submitted by the learned Counsel for the appellants instead of Rs.12,000/- per month which was

[1] (2017) 16 SCC 680

considered by the Tribunal. Thus, the annual income of the deceased is Rs.12,600/- x 12 = Rs.1,51,200/-.

7. As per ***Pranay Sethi (supra)***, the future prospects to be added is to be considered as 40%, as the deceased was below 40 years of age i.e Rs.1,51,200/- + 40% (Rs.60,480/-) = Rs.2,11,680/-. Since the deceased was a bachelor half of the above amount is to be deducted towards personal expenses which comes to Rs.1,05,840/-(Rs.2,11,680 – Rs.1,05,840/-). Considering the age of the deceased, the multiplier for calculation of loss of dependency as per ***Sarla Verma Vs. Delhi Transport Corporation***[2] is 18. Hence, Rs.1,05,840/- x 18 = 19,05,120/-.

8. The Tribunal has not granted any amount under the head loss of estate. Hence, the appellants/petitioners are entitled to compensation towards loss of Estate at Rs.15,000/- and funeral expenses was awarded by the Tribunal at Rs.5,000/-, which is hereby enhanced to Rs.15,000/-, by adding 10% to the above heads as per ***Pranay Sethi*** (supra), the appellants are entitled to Rs.30,000/- + 3,000/- =

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[2] (2009) 6 SCC 121

Rs.33,000/-. The appellants Nos. 1 and 2 are entitled to Rs.40,000/- each towards filial consortium as per ***Magma General Insurance Company Limited V. Nanu Ram alias Chuhru Ram***[3] which comes to Rs.80,000/-.

9. Accordingly, the appellants are entitled to Rs.19,05,120/- (Loss of dependency) + Rs.33,000/- (under conventional heads) + Rs.80,000/- (Filial consortium). In all, Rs.20,18,120/- (Rupees Twenty Lakh, eighteen thousand, one hundred and twenty only).

10. In the result, the appeal is allowed in part and accordingly, the order and decree dt.30.08.2013 in O.P No.933 of 2011 passed by the Tribunal is modified by enhancing the compensation from Rs.10,00,000/- to Rs.20,18,120/- (Rupees Twenty Lakh, eighteen thousand, one hundred and twenty only) with interest at the rate of 7.5% on the enhanced amount from the date of petition till the date of realization. Respondents are jointly and severally liable to pay the compensation amount. The compensation amount shall be apportioned among the appellants/claimants in the same

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[3] (2018) 18 SCC 130

proportion in which original compensation amounts were directed to be apportioned by the Tribunal. The claimants are directed to pay the deficit Court fee within one month from the date of receipt of a copy of this Judgment. Similarly, the respondents are directed to deposit the above said amount with interest and costs after deducting the amount, if any, deposited earlier within one month from the date of receipt of certified copy of this judgment. There shall be no order as to costs.

As a sequel thereto, miscellaneous applications, if any, pending in this appeal, shall stand closed.

NAMAVARAPU RAJESHWAR RAO, J

14th day of February, 2023
BDR