

**THE HON'BLE Dr.JUSTICE CHILLAKUR SUMALATHA
AND**

THE HON'BLE SMT JUSTICE M.G.PRIYADARSINI

M.A.C.M.A.No.521 OF 2014

JUDGMENT:- *(Per Dr.CSL,J)*

1. Challenge in this Civil Miscellaneous Appeal is the order that is rendered by the Court of Principal District Judge, Ranga Reddy District, in O.P.No.537 of 2009, dated 03.04.2013.

2. Heard Sri K.Subba Rao, learned counsel for the appellant as well as Sri D.Rama Krishna, learned counsel appearing for the respondents.

3. The 1st respondent being the Father, the 2nd respondent being the Mother, the 3rd respondent being the Brother and the 4th respondent being the Sister of the deceased-Jagadeeshwar (hereinafter be referred as the deceased for brevity) who died in a road accident, claimed compensation of Rs.70,00,000/- in total. The Court, through the impugned order, awarded compensation of Rs.44,00,000/- together with proportionate costs and interest. Aggrieved by the said Award, the appellant, who

is the insurer of the offending vehicle in question, is before this Court.

4. Making his submission, learned counsel for the appellant contended that the Insurance Company is only questioning the quantum of compensation awarded. Learned counsel states that the 3rd respondent, who is the major brother and the 4th respondent, who is the major sister of the deceased, are not entitled for compensation. Learned counsel submits that as the Father of those two i.e. Respondent No.1 is alive, they would become the dependants of Respondent No.1, but in no case the dependants of the deceased and thus, awarding compensation holding them to be the dependants of the deceased is unjustifiable. Learned counsel also submits that the Tribunal took the age of the Mother into consideration for applying the appropriate multiplier. But, as per the decision of the Hon'ble Apex Court in **Sarla Verma V. Delhi Transport Corporation and another**¹, the age of the deceased ought to have been taken into consideration.

¹ 2009 ACJ 1298

5. Learned counsel for Respondent Nos.1 to 4 seeks to pass appropriate orders basing on the merits of the case.

6. The fact that the gross annual salary of the deceased was Rs.5,06,250/- is borne by record through the evidence of PW3 and Ex.C1. Further, it is not in dispute that the deceased was aged about 27 years by the date of accident. Considering the above facts and basing on the established principles of law regarding the future prospects to be applied and the multiplier to be adopted, necessary calculation has to be made to arrive at a certain figure which amounts to just compensation. Admittedly, the deceased was working as SAS Programmer by the date of accident. Having considered the said fact, 50% of the income of the deceased has to be added towards future prospects as per the decision of the Hon'ble Apex Court in ***National Insurance Company Limited Vs. Pranay Sethi and others***². Likewise, as the deceased is a Bachelor, 50% of the income of the deceased has to be deducted towards personal and living expenses which the deceased would have incurred for himself had he been alive as per the

² 2017 ACJ 2700

decision of the Hon'ble Apex Court in Sarla Varma's (referred supra) case. Likewise, the appropriate multiplier to be applied considering the age of the deceased as 27 years by the date of accident is '17'. Hence, the following derivation is made:-

Annual gross salary	Rs.5,06,250/-
Less 10% Income Tax	Rs.5,06,250-10%(50,625/-) = Rs.4,55,625
Addition of 50% towards Future prospects	Rs.4,55,625+50% = Rs.6,83,437.5
Deduction of 50% towards personal and living expenses	=Rs.6,83,437.5-50%(3,41,718.75) =Rs.3,41,718.75
Appropriate multiplier to be applied	Rs.3,41,718.75 x '17' =Rs.58,09,218.75
Adding of 15,000/- towards Funeral expenses; Rs.15,000/- towards loss of estate Rs.40,000/- towards loss of filial consortium	Rs.58,09,218.75+15,000+15,000 +40,000 =Rs.58,79,218.75

7. The compensation which the claimants are entitled to is Rs.58,79,218.75. However, the Tribunal had awarded only Rs.44,00,000/- towards compensation. Therefore, the said amount can neither be termed exorbitant nor unjust. Applying the analogy put forth by the learned counsel for

the appellant, the claimants are entitled for more than the awarded amount. Therefore, we are of the considered view that the appeal which only questions the quantum awarded is unsustainable.

8. Resultantly, the Appeal is dismissed. Consequently, the Award of the Principal District Judge, Ranga Reddy District, which was issued in O.P.No.537 of 2009 , dated 03.04.2013 is confirmed.

9. Miscellaneous petitions, if any pending, shall stand closed.

Dr. JUSTICE CHILLAKUR SUMALATHA

JUSTICE M.G.PRIYADARSINI

Date:11.01.2023.
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