

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

M.A.C.M.A. No.2022 of 2018

JUDGMENT:

This appeal is preferred by Telangana State Road Transport Corporation, questioning the award and decree, dated 10.05.2017 passed in M.V.O.P.No.1296 of 2013 on the file of the Chairman, Motor Accident Claims Tribunal-cum-Chief Judge, City Civil Court, Hyderabad (for short, "the Tribunal").

2. For the sake of convenience, the parties have been referred to as arrayed before the Tribunal.

3. Brief facts of the case are that the claimants filed a petition under Section 166 of the Motor Vehicles Act claiming compensation of Rs.4,00,000/- for the death of K.Janardhan Chary, husband of claimant No.2, father of claimant No.1, Son of claimant No.3 (hereinafter referred as 'the deceased') in a road accident that occurred on 31.03.2013. It is stated that on the fateful day, at about 5:00 p.m., while the deceased was crossing the road, one RTC bus bearing No.AP 28 Z 2485 being driven by its driver came in rash and negligent with high speed in opposite direction and dashed the deceased, as a result of which, the deceased sustained severe head injury. Immediately, he was shifted to Gandhi Hospital for treatment and later, on 01.04.2013, the deceased died while undergoing treatment.

According to the claimants, the deceased was hale and healthy, aged 50 years and was earning Rs.7,000/- per month besides Rs.100/- per day as incentives by working as carpenter at Srinivasa Wood Furniture Shop at B.N.Reddy, Sagar Road, Hyderabad. The deceased used to contribute his earnings for the welfare of his family, but due to the sudden and untimely death of the deceased, the claimants lost their bread winner, love and affection besides losing future earnings and dependency on the deceased. Therefore, the claimants have claimed Rs.4,00,000/- as compensation against the respondents.

4. Considering the claim and the counter filed by the respondent Nos.1 & 2, and on evaluation of the evidence, both oral and documentary, the learned Tribunal has allowed the O.P. and awarded compensation of Rs.7,65,800/- with interest at 9% per annum to be payable by the respondent Nos.1 & 2 jointly and severally. Challenging the same, the present appeal has been filed by the TSRTC.

5. Heard both sides and perused the record.

6. The main contention of the learned Standing Counsel for the appellants is that there is a contributory negligence on the part of the deceased as he came on the main road from behind a parked lorry without observing the offending vehicle i.e., RTC bus, on seeing the same the driver of the RTC bus applied breaks and stopped the bus by taking it to his extreme left side of the road, even then the deceased who is a pedestrian came in contact with the stationed RTC bus, as such the appellant-Corporation is not liable to pay the compensation. However, appellants-Corporation has not examined the driver of the RTC bus or any passenger in the bus to support their version. Therefore, in the absence of any rebuttal evidence, the contention of the learned Standing Counsel for the appellants-Corporation that there is contributory negligence on the part of the deceased, is not sustainable.

7. Insofar as the quantum of compensation is concerned, the case of the claimants is that the deceased was earning Rs.7,000/- per month and Rs.100/- per day as incentives by working as a Carpenter at Srinivasa Wood Furniture Shop, B.N.Reddy, Sagar Road, Hyderabad. Except oral evidence of PW.2, the claimants in order prove the income of deceased, no documentary evidence is produced. Hence, the Tribunal has

taken notional income of the deceased at Rs.4,000/- per month, which is very less. However, considering the age and avocation of the deceased, this Court is inclined to fix the income of the deceased at Rs.6,000/- per month as he is a skilled person and 25% has to be added, towards future prospects as per the decision of the Apex Court in **National Insurance Company Limited Vs. Pranay Sethi and others**¹, which comes to Rs.7,500/- (Rs.6,000 + 1,500). After deducting 1/3rd towards personal expenses, the income of the deceased comes to Rs.5,000/-. As per the records, the deceased was aged about 50 years at the time of accident. Therefore, the appropriate multiplier in light of the judgment of the Apex Court in **Sarla Verma v. Delhi Transport Corporation**² is “13”. Thus, the future loss of income comes to **Rs.7,80,000/-** (Rs.5,000/- x 12 x 13). That apart, the claimant is entitled to Rs.77,000/- under conventional heads as per **Pranay Sethi** (Supra). Thus, in all, the claimants are entitled to **Rs.8,57,000/-**, which is just and reasonable.

8. Accordingly, the M.A.C.M.A. is dismissed. However, the compensation of Rs.7,65,800/- awarded by the Tribunal is hereby enhanced to **Rs.8,57,000/-**, to be paid by the

¹ 2017 ACJ 2700

² 2009 ACJ 1298 (SC)

respondent Nos.1 and 2 jointly and severally. The enhanced compensation amount shall carry interest at 7.5% p.a. from the date of petition till the date of realization. The enhanced compensation amount shall be apportioned among the claimants in the ratio as determined by the Tribunal. Time to deposit the entire compensation is one month from the date of receipt of a copy of this judgment. The claimants shall pay the deficit court fee and on such payment of court fee only, they are entitled to withdraw the compensation amount without furnishing any security. No costs.

Miscellaneous applications, if any, pending shall stand closed.

JUSTICE M.G. PRIYADARSINI

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DATE: 02.03.2023

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