

HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

M.A.C.M.A. No.1133 of 2017

JUDGMENT :

Not being satisfied with the quantum of compensation awarded by the Chairman, Motor Accident Claims Tribunal-cum-District Judge, Nizamabad in M.V.O.P. No.495 of 2013, dated 25.11.2016, the present appeal is filed by the claimants seeking enhancement of compensation granted by the Tribunal.

2. According to the petitioners, on 15.2.2013 while the deceased Satla Bhumanna was boarding RTC bus bearing No. AP.28.Z.3395, in the meantime, the bus driver driven it in rash and negligent manner without observing the deceased, as a result of which, the deceased fell down from the bus and came under the rear wheels of the bus, which ran over him. Immediately he was shifted to Government Hospital, Bhainsa and from there he was shifted to Shashank Hospital, Nizamabad, wherein he succumbed to injuries on 16.2.2013 at 04-00 hours while undergoing treatment. Police, Bhainsa registered a case in crime No.29 of 2013 and after investigation laid charge sheet against the bus driver under Section 304-A of Indian Penal Code. According to the petitioners, the deceased was doing agriculture and

as a washer man earning Rs.15,000/- per month. Thus the petitioners claimed compensation of Rs.10,00,000/- under various heads against the respondent-Corporation.

3. Respondent-Corporation filed counter disputing the manner of accident, age, avocation and income of the deceased. It is further contended that the compensation claimed by the petitioners is excessive and therefore, prays to dismiss the petition.

4. In order to prove their case, PWs.1 and 2 were examined and Exs.A1 to A4 were marked. On behalf of the respondent-Corporation, RW-1 was examined and no document was marked.

5. The Tribunal on considering the oral and documentary evidence available on record, partly allowed the O.P., awarding a total compensation of Rs.6,11,800/- along with proportionate costs and interest @ 7.5% per annum from the date of petition till deposit or realization against the respondent-Corporation.

6. Heard the learned counsel for the appellants and the learned Standing Counsel for the respondent-Corporation. Perused the material available on record.

7. The main contention of the learned counsel for the appellants/claimants is that though the claimants by examining PWs.1 and 2 and Exs.A1 to A4 proved the accident and also the cause of death of the deceased, the tribunal has awarded meager amount. It is further contended that the deceased was earning Rs.15,000/- per month but the tribunal has taken the income of the deceased at Rs.3,000/- per month and therefore, prayed to allow the appeal.

8. On the other hand, the learned Standing Counsel for the respondent-Corporation submitted that the tribunal after considering all the aspects has awarded reasonable amount and the same needs no interference by this Court.

9. With regard to the manner of accident, the tribunal has framed issue No.1 as, “*Whether Satla Bhumanna died due to rash and negligent driving of APSRTC bus No.AP.28.Z.3395*” and settled the issue in favour of the petitioners by stating that the accident occurred only due to the rash and negligent driving of the driver of the RTC bus. Therefore, I see no reason to interfere with the finding of the tribunal in this aspect.

10. Coming to the quantum of compensation, though the petitioners contended that at the time of accident, the deceased was aged 41 years and used to earn Rs.15,000/- per month by doing agriculture and business, as there is no document filed to prove the same, the tribunal has taken the income of the deceased at Rs.3,000/- per month, which is very less. Therefore, considering the age, avocation of the deceased and the accident is of the year 2013, the income of the deceased can be taken at Rs.5,000/- per month. Further in light of the principles laid down by the Apex Court in ***National Insurance Company Limited Vs. Pranay Sethi and others***¹, the claimants are entitled to future prospects @ 25 of his income, since the deceased was aged 41 years. Then it comes to Rs.6,250/- (5,000+ 1,250 = 6,250/-). From this, 1/4th of the income is to be deducted towards personal expenses of the deceased following ***Sarla Verma v. Delhi Transport Corporation***² since the deceased left as many as four persons as the dependants. After deducting 1/4th of the amount towards his personal and living expenses, the contribution of the deceased to the family would be Rs.4,687/- (6,250 – 1,562 = 4,687/-) per month. Since the

¹ 2017 ACJ 2700

² 2009 ACJ 1298 (SC)

deceased was 41 years by the time of the accident, the appropriate multiplier is '14' as per the decision reported in ***Sarla Verma v. Delhi Transport Corporation*** (supra). Adopting multiplier '14, the total loss of dependency would be Rs.4,687/- x 12 x 14 = **Rs.7,87,416/-**. In addition thereto, the claimants are also entitled to **Rs.77,000/-** under the conventional heads as per **Pranay Sethi's** (supra). Petitioner No.3 who is minor son of the deceased is entitled for parental consortium at **Rs.40,000/-** as per the **Magma General Insurance Company Limited vs. Nanu Ram Alias Chuhru Ram**³. Thus, in all the claimants are entitled to **Rs.9,04,416/-**.

11. In the result, the appeal is partly allowed and the compensation awarded by the tribunal is reduced from Rs.6,11,800/- to **Rs.9,04,416/-** with interest at 7.5% per annum from the date of petition till the date of realization against the respondent-Corporation. The compensation amount shall be apportioned in the ratio as ordered by the tribunal. The amount shall be deposited within a period of one month from the date of receipt of a copy of this order. On such deposit, the claimants are entitled to withdraw the amount. There shall be no order as to costs.

³ 2018 Law Suit (SC) 904

Pending miscellaneous applications, if any, shall stand closed.

JUSTICE M.G.PRIYADARSINI

01.03.2023

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