

HON'BLE SMT. JUSTICE G. ANUPAMA CHAKRAVARTHY

M.A.C.M.A.No.1644 of 2012

JUDGMENT :

This appeal is filed by the claimants being aggrieved by the order and decree dated 11.04.2011 in O.P.No.114 of 2009 on the file of Motor Accident Claims Tribunal-cum-II Additional Chief Judge, City Civil Court, Hyderabad, for the death of the deceased, namely, K. Vishwanath, who died in the accident which occurred on 15.10.2008 at 11.10 a.m.

2. For the sake of convenience, the parties are referred to as arrayed in the O.P.

3. Initially, the claim was made for Rs.9,00,000/- and the Tribunal awarded an amount of Rs.5,56,500/-. Since the appeal is filed only for enhancement of compensation, the appreciation in this appeal would be only with respect to that aspect.

4. Heard learned counsel for both the parties and perused the record.

5. It is contended by the learned counsel for the claimants that the deceased was aged about 50 years at the time of the accident, was working as a Security Guard and used to earn Rs.4,500/- per month as per Ex.X-1. The claimants are the wife and children of the deceased respectively, who are four in number, and due to the untimely death of deceased, the family lost love and affection as well as the financial income.

6. On the other hand, learned counsel for the respondents contended that the Tribunal has granted adequate compensation to the claimants, and therefore, there is no necessity to interfere with the orders of the Tribunal and prayed to dismiss the appeal.

7. PW-1 is the wife of the deceased, PW-2 is the eye witness to the incident, PW-3 is the Chief Executive Officer of Blue Star Security, Hyderabad and according to him, the deceased was drawing a salary of Rs.4,500/- per month prior to his death (Ex.X-1 is the acquittance register, Ex.A-5 is the salary certificate of the deceased). But the Tribunal has not considered the future

prospects while calculating the compensation and also granted less amount towards consortium.

8. On perusal of the record, it is evident that the Tribunal has granted compensation to the claimants under the following heads:

1.	Loss of dependency	Rs.5,26,500/-
2.	Loss of consortium	Rs.15,000/-
3.	Loss of estate	Rs.10,000/-
4.	Funeral expenses	Rs.5,000/-
	TOTAL	Rs.5,56,500 /-

9. As stated supra, the deceased was aged 50 years as on the date of the accident and the income of the deceased as per Ex.A-5 is Rs.4,500/- per month as a Security Guard. As per the judgment of the Hon'ble Supreme Court in **Smt.Sarla Verma v. Delhi Transport Corporation & another**¹, the multiplier applicable is '13' for the age group of 46 to 50 years. Further, as per the proposition laid down by the Apex Court in **National Insurance Company Ltd. v. Pranay Sethi & others**², the claimants are entitled for future prospects @ 25% and for consortium @ Rs.40,000/-, as they are the wife and children of the deceased and the claimants are also entitled for compensation towards funeral

¹ (2009) 6 SCC 121

² 2017 ACJ 2700

expenses and for loss of estate to a tune of Rs.15,000/- under each head.

10. If 25% is added towards future prospects to the income of the deceased, it would come to Rs.5,625/- (Rs.4,500 X 25/100 + Rs.4,500). The claimants in this case are four in number, who are the wife and children of the deceased. As per the judgment in **Sarla Verma's** case (1 supra), $\frac{1}{4}^{\text{th}}$ is to be deducted towards personal expenses of deceased and the appropriate multiplier would be '13'. Thus, the loss of dependency would come to Rs.6,58,125/- (Rs.5,625 X 12 X 13 X $\frac{3}{4}$).

11. Thus, the claimants are entitled to compensation under the following heads;

granted compensation to the claimants under the following heads:

1.	Loss of dependency	Rs.6,58,125/-
2.	Loss of consortium @ Rs.40,000/- each to the wife and children of the deceased, total 4 in number.	Rs.1,60,000/-
3.	Loss of estate	Rs.15,000/-
4.	Funeral expenses	Rs.15,000/-
	TOTAL	Rs.8,48,125 /-

12. Accordingly, the appeal is allowed, enhancing the compensation from Rs.5,56,500/- to Rs.8,48,125/- with costs and interest at the rate of 7.5% per annum from the date of petition till the date of realization, payable by respondent Nos.1 and 2 jointly and severally to the claimants, within two months from the date of receipt of this order. The appellants/claimants being the wife and children of the deceased, are equally entitled for the said compensation and they are permitted to withdraw their respective shares of compensation along with costs and interest, as the accident occurred in the year 2008.

Pending miscellaneous applications, if any, shall stand closed.

G.ANUPAMA CHAKRAVARTHY, J

Date: 25.01.2023

ajr