THE HON'BLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO

M.A.C.M.A.No.1389 OF 2016

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, aggrieved by the order and decree, dated 03.02.2016, passed in M.V.O.P.No.334 of 2013 on the file of the Motor Accidents Claims Tribunal (II Additional District Judge) (FTC), Nizamabad (for short "the Tribunal").

2. For the sake of convenience, the parties will be hereinafter referred to as they are arrayed before the Tribunal.

3. Brief facts of the case are that the petitioners filed a petition under Section 166 of the Motor Vehicles Act claiming compensation of Rs.7,00,000/- on account of the death of Oddepally Balraj (hereinafter referred to as the deceased) in a motor vehicle accident. It is stated that on 26.03.2013 while the deceased along with his friend Bakka Mahesh was returning from Banswada on their motorcycle and when it reached at Banswada cross-road Pitlam Village, a lorry bearing No.HR-74-1954 came in opposite direction driven by its driver in a rash and negligent manner and dashed against the motorcycle, due to

which, Mahesh died on the spot and deceased sustained grievous injuries and was shifted to Gandhi Hospital, Secunderabad, where he succumbed to injuries on 30.03.2013.

4. Respondent No.1 was set *ex parte* and respondent No.2 filed counter - denying the allegations in the petition.

5. On behalf of the petitioners, PWs.1 and 2 were examined and got marked Exs.A1 to A7. On behalf of respondent No.2, RW.1 was examined and got marked Exs.B1 to B3.

6. After considering the oral and documentary evidence available on record, the Tribunal allowed the O.P. in part awarding a sum of Rs.6,50,000/- towards compensation with interest at 7.5% per annum, to be paid by the respondents jointly and severally. According to the petitioners, the Tribunal erroneously granted meagre amount and for enhancement of the same, the petitioners filed the present appeal.

7. The learned counsel for the petitioners would submit that prior to the accident, the deceased was aged 25 years and was working as a labourer, earning Rs.10,000/- per month, but the Tribunal has taken the income of the deceased at Rs.4,000/-

per month, which is to be increased in a reasonable manner. He further contended that the multiplier "17" is to be substituted with multiplier "18". He also prayed to grant compensation under various conventional heads as per law.

8. Per contra, learned counsel appearing for respondent No.2 would contend that the Tribunal was justified in passing the impugned order and no interference is required.

9. Heard the learned counsel for the petitioners, the learned counsel for the respondent No.2 and perused the record.

10. A perusal of the record would reveal that the deceased was aged about 25 years and was a labourer, but the Tribunal fixed his income at Rs.4,000/- per month with the reason that the Tribunal cannot expect any record regarding his avocation and also income. However, this court is inclined to fix the income of the deceased at Rs.4,500/- per month as per the ratio laid down by the Hon'ble Supreme Court in ***Ramcandrappa V. Manager, Royal Sundaram Alliance Insurance Company Ltd.,***[1] Further, the Tribunal ought to have taken the multiplier "18" for the purpose of determining the loss of dependency as per

[1] (2011) 13 SCC 236

***Sarla Verma Vs. Delhi Transport Corporation*[2]**. The petitioners are further entitled to compensation under conventional heads as per ***National Insurance Company Limited V. Pranay Sethi and others*[3],** *a*nd filial consortium as per ***Magma General Insurance Co.Ltd Vs.Nanu Ram Alias Chuhru Ram*[4].**

11. This Court would now deal with the quantum of the awarded compensation. The petitioners were granted Rs.6,50,000/- and the same is interfered with in the following manner:

Head	**Amount arrived at by the Tribunal**	**Amount arrived at by this Court**
Income of deceased	Rs.4,000/- p.m	Rs.4,500/- p.m
Annual income after deducting 50% as deceased was a bachelor	Rs.24,000/- (Rs.4,000 x 12 – 50%)	Rs.27,000/- (Rs.4,500 x 12 – 50%)
Future prospects	Rs.2,000/- (at 50% of monthly income)	Rs.1,800/- (40% to be taken as per *Pranay Sethi)*
Age Multiplier	"17"	**"18"** (As per *Sarla Verma)*
Loss of dependency	Rs.5,40,000/- (Wrongly calculated instead of Rs.6,12,000/-	**Rs.6,80,400/-** (Rs.3,150 x 12 x 18)
Loss of Estate	Nil	**Rs.16,500/-** (Rs.15,000/- + 10% as per *Pranay Sethi)*
Funeral Expenses	Rs.18,000/-	**Rs.16,500/-** (Rs.15,000/- + 10% as per *Pranay Sethi)*

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[2] 2009 ACJ 1208(SC)
[3] (2017) 16 SCC 680.
[4] 2018 Law Suit (SC) 904

Loss of love & affection	Rs.20,000/-	**Nil**
Loss of Filial Consortium	Nil	**Rs.80,000/-** (Rs.40,000/- to each petitioner as per *Nanu Ram alias Chuhru Ram)*
Total	Rs.6,50,000/-	**Rs.7,93,400/-**

12. Though the claimed amount is Rs.7,00,000/-, invoking the principle of just compensation, and in view of the law laid down by the Hon'ble Supreme Court in ***Rajesh vs. Rajbir Singh***[5], this Court is empowered to grant compensation beyond the claimed amount.

13. Accordingly, the appeal is allowed, enhancing the compensation from Rs.6,50,000/- to Rs.7,93,400/- (Rupees Seven Lakh, ninety three thousand and four hundred only) with interest at 7.5% from the date of petition till the date of realization. The said amount shall be apportioned in the ratio as ordered by the Tribunal. The respondents shall deposit the said compensation amount together with interest and costs after giving due credit to the amount already deposited, if any, within a period of two months from the date of receipt of a copy of this judgment. However, the appellants/claimants are directed to pay the deficit court fee on the enhanced amount within one month from the date of receipt of the copy of this judgment. There shall be no order as to costs.

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[5]MANU/SC/0480/2013

As a sequel of which, miscellaneous petitions, if any, pending shall stand closed.

NAMAVARAPU RAJESHWAR RAO, J

1st day of March, 2023
BDR