**THE HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA**
**AND**
**THE HON'BLE SMT. JUSTICE M.G.PRIYADARSINI**

**M.A.C.M.A.No.767 of 2014**

**JUDGMENT:-**

1. Questioning the validity of the Award passed by the Motor Accidents Claims Tribunal, Hyderabad, in M.V.O.P.No.2661 of 2011, dated 04.09.2013, a Civil Miscellaneous Appeal is preferred by the Insurance Company, who was the 2$^{nd}$ respondent in the O.P. in question.

2. Heard Sri K.Subba Rao, learned counsel for the appellant as well as Smt.Savithri, learned counsel appearing for the Respondent Nos.1 to 4.

3. Though number of grounds were urged by the Insurance Company, i.e. the appellant, while making his submission, learned counsel for the appellant stated that the main attack is on the quantum awarded. Learned counsel, during the course of his submission, contended that ample evidence is on record to show that one of the dependants would be getting employment on compassionate grounds. But the said fact was not taken into consideration by the Tribunal.

Learned counsel also stated that the Tribunal went wrong in calculating compensation basing on the entire annual income of the deceased. Learned counsel stated that the Tribunal ought to have deducted the Income Tax from the annual gross salary of the deceased, but, it did not do so and thereby arrived at a wrong figure. Learned counsel, by submitting thus, sought this Court to reduce the amount awarded towards compensation.

4. In reply to the grounds urged and arguments advanced by the learned counsel for the appellant, the learned counsel appearing for the respondents/claimants submitted that even if Income Tax, as urged by the appellant, is deducted and calculation is again made basing on the settled principles of law, the claimants would be getting more than the sum awarded by the Tribunal. Learned counsel further contended that the Tribunal has not awarded any amount either towards loss of estate or towards loss of consortium to any of the claimants which is against law. Learned counsel finally sought this Court to recalculate the sum to be awarded and to award just compensation.

5. The admitted facts and figures that are brought on record through the evidence produced are as under:-

(i) The deceased-Akula Rajaiah (hereinafter be referred as the deceased for brevity) was born on 25.06.1965.

(ii) The deceased died on 13.08.2011.

(iii) The deceased, therefore, is aged about 46 years by the date of accident which ultimately resulted in his death.

(iv) The gross salary of the deceased was Rs.33,003.16.

6. Thus, in the light of the above admitted factors, applying the established principles of law, just compensation has to be calculated.

7. The wife of the deceased, who was the first claimant, died subsequent to the death of the deceased i.e. on 10.01.2012. The second claimant is the son, the third claimant is the daughter and the fourth claimant is the mother of the deceased.

8. As the gross monthly income of the deceased is Rs.33,003.16, the annual income comes to Rs.3,96,037.92/- (rounded to Rs.3,96,038/-). As urged by the learned counsel

for the appellant, out of the said income, the Income Tax payable by the deceased has to be deducted. The Income Tax upto Rs.1,60,000/- is Nil. The Income Tax payable from Rs.1,60,000/- to Rs.5,00,000/- is 10%. Therefore, the taxable income is Rs.2,36,038 (Rs.3,96,038-Rs.1,60,000) and the Tax payable is Rs.2,36,038 x 10% =Rs.23,604/-. The annual income after deducting Income Tax is Rs.3,96,038-Rs.23,604 = Rs.3,72,434/-. As the deceased died at the age of 46 years and as he had permanent job, 30% of the annual income 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**[1]. Then the annual income of the deceased together with future prospects comes to Rs.3,72,434+30% = Rs.4,84,164.2/- (rounded to Rs.4,84,164/-). The dependants were four in number. Therefore, as per the decision of the Hon'ble Apex Court in ***Sarla Verma & Ors vs. Delhi Transport Corp. & Anr.***[2] , ¼ 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. Thus, the annual contribution of the deceased towards his dependants comes

[1] (2017) 16 Supreme Court Cases 680
[2] (2009) 6 SCC 121

to Rs.4,84,164 – Rs.1,21,041 = Rs.3,63,123/-. The appropriate multiplier to be applied as per the decision that is referred supra is ‘13’. Thus, the loss of dependency comes to Rs.47,20,599/- (Rs.3,63,123 x 13). Together with the said amount, the claimants are entitled to Rs.15,000/- towards funeral expenses, Rs.15,000/- towards loss of estate, Rs.40,000/- towards loss of spousal consortium, Rs.40,000/- towards loss of parental consortium, Rs.40,000/- towards loss of filial consortium. Thus, in ,all, the dependants are entitled to Rs.48,70,599/- (Rs.47,20,599 + Rs.15,000 + Rs.15,000 + Rs.40,000 + Rs.40,000 + Rs.40,000). Thus, as rightly projected by the learned counsel for the respondents/claimants, even if the Income Tax payable by the deceased is deducted, having regard to the fact that the Tribunal failed to award any amount towards loss of estate and loss of consortium, the claimants would be well entitled to the amount awarded. Therefore, we are of the view that the amount awarded as compensation cannot be reduced in the light of the grounds urged and projected before this Court. Further, chances of one of the claimants getting employment on compassionate grounds cannot be taken as a ground to reject the claim for compensation.

9. Therefore, the Appeal stands dismissed confirming the Award of the Motor Accidents Claims Tribunal, Hyderabad, in M.V.O.P.No.2661 of 2011, dated 04.09.2013.

10. Pending miscellaneous petitions, if any, shall stand closed.

**Dr. JUSTICE CHILLAKUR SUMALATHA**

**JUSTICE M.G.PRIYADARSINI**

**Dt. 18.01.2023**
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