

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

**M.A.C.M.A. No.1526 of 2017**

**JUDGMENT:**

This appeal is filed by the Insurance Company aggrieved of the order and decree dated 02.02.2017 in M.V.O.P.No.1408 of 2012 on the file of the Chairman, Motor Accident Claims Tribunal-cum-Chief Judge, City Civil Court, Hyderabad.

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

3. According to the petitioners, on 17.05.2012 the deceased- G.Sathaiah Goud was proceeding on his bicycle from Narsapur side towards his native place at Reddypaly and at about 7.30 p.m. when he reached near Bus stop of Peddachintalur Village, Narsapur Mandal, one Hero Honda motorcycle bearing temporary registration No. AP 23 TN TR 4700 being driven by its rider came in a rash and negligent manner at high speed in the same direction and dashed his bicycle. Due to which he fell down on the road, sustained fatal injuries and died instantaneously. According to the petitioners, the deceased was aged 40 years at the time the accident and was a Toddy Tapper and used to earn Rs.20,000/- per month. Thus the petitioners are claiming compensation of Rs.20 lakhs under various heads against the respondent Nos.1 and 2, who are the owner and insurer of the offending motorcycle, jointly and severally.

4. Respondent No.1 remained ex parte; Respondent No.2 filed counter disputing the manner in which the accident occurred, age, avocation and income of the deceased. It is further contended that the accident occurred due to the negligence on the part of the deceased and therefore, prayed to dismiss the petition.

5. In order to prove their case, on behalf of the petitioners, PWs.1 to 3 were examined and got marked Exs.A-1 to A-7. On behalf of respondent No.2, RWs.1 and 2 were examined and Exs.B1 and B2 were marked and Ex.X1 to X7 were marked.

6. On considering the oral and documentary evidence available on record, the Tribunal has awarded an amount of Rs.15,03,500/- towards compensation to the appellants-claimants against both the respondents, jointly and severally, along with proportionate costs and interest @ 9% per annum from the date of petition till the date of amount, as against the claim of Rs.20 lakhs.

7. Heard the learned Standing Counsel for the appellant-Insurance Company and the learned counsel for the claimants-respondent Nos.1 to 5 herein. Perused the material available on record.

8. The learned Standing Counsel for the appellant-Insurance Company contended that the decree of the Tribunal is contrary to law, weight of evidence and against the settled principles of law and that the Tribunal erred in awarding the higher compensation under the head of loss of consortium, loss of love and affection, loss of estate and

transportation and funeral expenses and therefore, prayed to set aside the impugned order in the O.P.

9. The learned counsel for the claimants contended that the learned Tribunal has awarded just and reasonable compensation and the same needs no interference by this Court.

10. With regard to the manner of accident, there is no dispute. However, considering the evidence of PWs.1 and 2 coupled with the documentary evidence available on record, the Tribunal rightly held that the accident occurred due to rash and negligent driving of the driver of the offending vehicle.

11. Coming to the quantum of compensation, according to the petitioners, the deceased was aged 40 years at the time of accident and was a Toddy Tapper and earning Rs.20,000/- per month. In support of their case, petitioners examined the co-worker of the deceased who stated that the salary of the deceased was Rs.9,000/- per month. However, as the petitioners failed to prove Ex.A7 Salary Certificate issued by Geetha Parisramika Sahakara Sangam, the tribunal had rightly taken the income of the deceased at Rs.7,000/- per month, added 30% of it towards future prospectus, deducted 1/4<sup>th</sup> towards his personal expenses and by applying multiplier "15", awarded **Rs.12,28,500/-** towards loss of dependency, which appears to be just and reasonable. Therefore, there are no grounds to interfere with the said finding of the tribunal. However, the tribunal awarded

Rs.1,00,000/- towards loss of consortium, Rs.1,00,000/- towards loss of love and affection, Rs.50,000/- towards loss of estate and Rs.25,000/- towards transportation and funeral expenses appears to be very excessive. Therefore, this Court is inclined to award an amount of **Rs.77,000/-** under the conventional heads, as per the decision of the Apex Court in ***National Insurance Company Limited Vs. Pranay Sethi and others***<sup>1</sup>. Further petitioner No.4 who is minor children of the deceased is entitled for **Rs.40,000/-** as filial consortium as per ***Magma General Insurance Company Limited v Nanu Ram alias Chuhru Ram***<sup>2</sup>. Thus, in all, the compensation is enhanced to **Rs.13,45,500/-** awarded by the Tribunal.

12. Coming to the aspect of interest, considering the prevailing rate of interest, the interest awarded by the Tribunal is excessive. Therefore, the rate of interest is reduced from 9% to 7.5% per annum.

13. In the result, the M.A.C.M.A. is partly allowed by reducing the compensation amount awarded by the Tribunal from Rs.15,03,500/- to **Rs.13,45,500/-**. The compensation amount shall carry interest at 7.5% p.a. from the date of petition till the date of realization, to be payable by both the respondents jointly and severally. The amount of compensation shall be apportioned among the claimants 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.

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<sup>1</sup> 2017 ACJ 2700

<sup>2</sup> (2018) 18 SCC 130

On such deposit of compensation amount by the respondents, the claimants are at liberty to withdraw the same without furnishing any security. There shall be no order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

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**JUSTICE M.G.PRIYADARSINI**

21.02.2023.  
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