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

M.A.C.M.A.No.2449 of 2015

JUDGMENT:

This appeal is preferred by the appellant-Insurance Company, questioning the order and decree, dated 17.07.2015 made in M.V.O.P.No.269 of 2013 on the file of the Motor Accidents Claims Tribunal-cum-Principal District Judge, Medak at Sangareddy (for short, 'the Tribunal').

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

3. The claimants filed a petition under Section 166 of the Motor Vehicles Act claiming compensation of Rs.25,00,000/- against the respondents on account of death of the deceased in the accident that occurred on 28.01.2013 involving the crime vehicle bearing No. AP-09-VN-T/R-0158, owned by 1st respondent, being driven by its driver. According to the claimants, on the fateful day, while the deceased along with another person was travelling on the motor cycle, the offending vehicle

came in rash and negligent manner and dashed the motor cycle in which the deceased was travelling. As a result, the deceased sustained grievous injuries. Immediately after the accident, the deceased was shifted to Gandhi Hospital and while undergoing treatment he succumbed to injuries on 28.01.2013. According to the claimants, the deceased was a bachelor aged about 23 years and earning Rs.9,000/- per month by doing business. Therefore, they laid the claim for Rs.25.00 lakhs against the respondents.

4. After considering the claim, counter and the evidence brought on record, the Tribunal has allowed the O.P. in part awarding compensation of Rs.11,12,000/- together with interest at 7.5% per annum and costs to be paid by the respondents. Challenging the same, the present appeal is preferred by the respondent-Insurance Company.

5. Heard both sides and perused the material available on record.

6. The contention of the learned Standing Counsel for the Insurance Company is that the Tribunal erred in holding that the accident occurred due to rash and negligent driving of the driver of the offending vehicle. It is further contended that in the absence of any proof as to the income of the deceased, the learned Tribunal ought not to have taken the income at Rs.6,000/- per month. It is further contended that the rate of interest fixed by the Tribunal at 7.5% is too high and it should not be more than 6%.

7. On the other hand, the learned counsel appearing on behalf of the claimants has sought to sustain the impugned order contending that the Tribunal has awarded just compensation. Therefore, the learned counsel sought for dismissal of the appeal.

8. Insofar as the manner in which the accident took place is concerned, a perusal of the impugned judgment would go to show that the Tribunal having framed Issue No.1 as to whether the death of the deceased occurred due

to rash and negligent driving of the driver of the crime vehicle, and having considered the evidence of P.Ws.1 to 3 coupled with the documentary evidence, has categorically observed that the accident occurred due to the rash and negligent driving of the driver of the crime vehicle and has answered the issue in favour of the claimants and against the respondents. Therefore, I see no reason to interfere with the finding of the Tribunal in this regard.

9. As regards the quantum of compensation, considering the age and avocation of the deceased, the Tribunal has rightly fixed the income of the deceased at Rs.6,000/- per month. Apart from that, in fact the claimants are entitled to addition of 40% towards future prospects, as per the decision of the Hon'ble Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others***[1]. Therefore, the monthly income of the deceased comes to Rs.8,400/- (Rs.6,000/- + Rs.2,400/-). Since the deceased was a bachelor, the

[1] 2017 ACJ 2700

Tribunal ought to have deducted 50% towards personal and living expenses of the deceased but not 1/3rd. After deducting 50% towards personal expenses, the contribution of the deceased to the family works out to Rs.4,200/- per month. As the age of the deceased was 23 years at the time of the accident, the appropriate multiplier is '18' as per the decision reported in ***Sarla Verma v. Delhi Transport Corporation and another***[2] as adopted by the Tribunal. Adopting multiplier 18, his total loss of earnings would be Rs.9,07,200/- (4,200/- x 12 x 18). The claimants are entitled to Rs.33,000/- towards loss of estate and funeral expenses, as per **Pranay Sethi**'s case (supra). The claimants are also entitled to Rs.2,48,000/- towards medical expenses as awarded by the Tribunal. Thus, in all, the claimants are entitled to Rs.11,88,200/- (Rs.9,07,200/- + Rs.33,000/- + Rs.2,48,000/-).

10. Insofar as the interest is concerned, the claimants are entitled to interest @ 7.5 per annum on the compensation

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[2] (2009) 6 SCC 121

as awarded by the Tribunal from the date of petition till realization.

11. Accordingly, the M.A.C.M.A. is dismissed. The compensation amount awarded by the Tribunal is hereby enhanced from Rs.11,12,000/- to 11,88,200/-. The compensation amount will carry interest at 7.5% p.a. from the date of petition till the date of realization. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand dismissed.

JUSTICE M.G. PRIYADARSINI

09.01.2023
Prv

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M.A.C.M.A.No.2449 of 2015

DATE: 09.01.2023

Prv