

THE HON'BLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO**MACMA No.1854 OF 2014****JUDGMENT:**

This M.A.C.M.A is filed under Section 173 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'). The appellant is aggrieved by the judgment and decree dt.18.11.2006 in O.P No. 924 of 2003 on the file of the XVII Additional Chief Judge, City Civil Courts, Hyderabad (hereinafter referred to as 'the Court below').

2. The brief facts of the case are as follows:

Udugu Jagadamba, the deceased, aged about 55 years on 28.9.2000 at about 10 a.m., while walking on NH-7 at Chandrayangutta Bus Stop, was dashed by an Auto-rickshaw bearing No.AP-13-B-2900 being driven by its driver in a rash and negligent manner and as a result, the deceased received grievous injuries and was shifted to Osmania Hospital for treatment, where she succumbed to the injuries on 1.10.2000. The sole appellant who is the only legal heir of the deceased filed a claim petition against the respondents claiming Rs.1,00,000/- as compensation.

3. To prove her case, the appellant got herself examined as PW-1 and another as PW-2 and got marked Exs.A1 to A5. The 1st respondent remained ex parte and the 2nd respondent filed counter and got examined RWs-1 and 2 and got marked Ex.B1.

4. After hearing both sides and basing on the available evidence on record, the Court below awarded Rs.55,000/- as compensation to the appellant. Aggrieved by the quantum of compensation, the present appeal is filed.

5. Heard both sides. Perused the record.

6. Learned counsel for the appellant contended that the awarded amount was meagre and the Court below ought to have awarded more amount as claimed and contended that the age of the deceased ought to have been considered as 55 years in order to take the appropriate multiplier as '7'. He further contended that the appellant was not awarded compensation under various other heads and prayed to grant compensation under the law as established. Hence, prayed to allow the appeal.

7. Per contra, learned Counsel appearing for the respondents argued that the Court below was justified in passing the impugned order in view of the admission made by the appellant that the deceased was not working at the time or prior to her death. Accordingly, prayed to dismiss the appeal.

8. A perusal of the record would reveal that the deceased died in the year of 2000. The claim petition was filed in the year 2003, the impugned award was passed in the year 2006. Now we are in the year

2023. The Court below considered the income of the deceased as Rs.15,000/- p.a which is Rs.1,250/- per month at that point of time based on the Second Schedule of the Act which was later repealed. There have been several rulings of the Hon'ble Supreme Court as to what the notional income of a deceased can be taken in absence of any income or proof of income. However, this Court would deem it just and proper to consider the income of the deceased at Rs.3,000/- p.m (Rs.36,000/- p.a) in view of the present-day scenario. However, the Court below has applied the multiplier '5' as per the Second Schedule of the Act in that point of time, but the same is to be substituted with '9' as per the decision of the ***Sarla Verma vs Delhi Transport***¹. The appellant is further entitled to the benefit of future prospects on the above assessed income of the deceased @ 10% besides compensation under the conventional heads as per the decision of the Hon'ble Supreme Court in ***National Insurance Company Ltd. Vs Pranay Sethi***².

9. As such, the appellant is entitled to compensation as under:

Head	Amount Awarded by the Court below	Amount Awarded by this Court
Loss of dependency	Rs.50,000/-	Rs.2,37,600/- (Rs.36,000/-+10% - $\times 2/3 \times 9$)
Loss of filial consortium (As per Magma General Insurance Company Ltd. Vs Nanu Ram alias	Nil	Rs.40,000/-

¹ (2009) 6 SCC 121.

² (2017) 16 SCC 680.

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Loss of Estate (2017) 16 SCC 680)	Nil	Rs.16,500 (Rs.15,000/- + 10%)
Funeral expenses (2017) 16 SCC 680)	Rs 2,500/-	Rs.16,500 (Rs.15,000/- + 10%)
Travel expenses	Rs.2,500/-	Rs.2,000/-
Total	Rs.55,000/-	Rs. 3,12,600/-

10. There is no irregularity in awarding the enhanced compensation amount as against the claimed amount as it is well-settled law that the awarded amount can be enhanced more than that of the claim as per the principle of 'Just Compensation'. However, the appellant is bound to deposit the deficit court fee upon the enhanced amount.

11. In the result, the appeal is allowed by enhancing the compensation amount from Rs.55,000/- to Rs.3,12,600/- (Rupees Three Lakhs Twelve Thousand and Six Hundred Only) with interest @ 7.5% p.a. from the date of petition till the date of realization. The respondents are directed to deposit the above said amount with interest and costs after deducting the amount, if any, deposited earlier within one month from the date of receipt of a certified copy of this judgment. The appellant/claimant is directed to pay the deficit Court fee on the enhanced compensation amount within

one month from the date of receipt of a copy of this judgment.

There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

NAMAVARAPU RAJESHWAR RAO, J

14th day of February, 2023

BDR