

THE HON'BLE SMT. JUSTICE RENUKA YARA

M.A.C.M.A.No.2804 of 2017

JUDGMENT:

Heard Sri Kasireddy Jagathpal Reddy, learned counsel for the appellants/claimants and Sri Harinath Reddy Soma, learned standing counsel for the respondent No.2/Insurance Company. Perused the entire record.

2. This is an appeal preferred by the appellants/claimants aggrieved by the award passed by the learned XIII Addl. Chief Judge (Fast Track Court), City Civil Court, Hyderabad (for short 'the Tribunal'), in M.V.O.P.No.1313 of 2014, dated 30.01.2017.

3. The claim petition was filed by the appellants on account of death of one B. Mrutyunjai in an accident which took place on 22.03.2014 at 8.45am near Reddy's Laboratories, Bachupally, Quthbullapur Mandal, Hyderabad, Cyberabad District.

4. Upon considering the evidence adduced by the claimants, the Tribunal awarded compensation of Rs.6,18,000/- with interest at 9% per annum as against the claim of Rs.12,00,000/-.

5. The occurrence of accident and liability of the respondents to pay compensation are not in dispute.

6. The only ground for filing the appeal is that the claim petition is filed seeking compensation of Rs.12,00,000/- whereas the Tribunal has awarded only Rs.6,18,000/- with interest at 9% per annum.

7. In the grounds of appeal, it is contended that the income of the deceased is taken as Rs.70,000/- per annum instead of Rs.15,000/- per month as he was working in hotel situated at DRL Project in Compass Group India Service Ltd. Further, proper consortium is not awarded. Hence, this appeal seeking enhancement of compensation.

8. The Tribunal has considered the age of the deceased as 52 years and the same is challenged alleging that the deceased was aged about 50 years on the date of accident. On this count, documentary evidence is defective showing the age of the deceased as 35 years in the charge sheet. In fact, the entire crime record shows the age of the deceased as 35 years. At the time of filing the claim petition, the age of the deceased is shown to be 50 years. The Tribunal compared the age of appellant No.2 (daughter of deceased) at 24 years and arrived the age of deceased at 52 years which does not have any basis except comparison. Additionally, the age as

deposed by PW1 is that is that the deceased was aged 52 years. On the basis of evidence of PW1, the age of the deceased is taken as 52 years and this Court does not find any reason to interfere with the said finding given by the learned Tribunal. The admitted facts need not be proven as per Section 58 of the Indian Evidence Act, 1872. PW1 i.e. wife of the deceased has filed an affidavit stating the age of the deceased to be 52 years and therefore, the appellants now cannot retract their own statement and claim age of the deceased to be 50 years.

9. Coming to the aspect of income of the deceased, the wife of the deceased deposed that he had income of Rs.15,000/- per month by working as a Steward in DRL Project in Compass Ground (India) Services. As per police record, the deceased was a contract employee working as a Canteen boy. There can be no expectation of payment of Rs.15,000/- per month as a Canteen boy. Hence, the notional income of the deceased in the year 2014 as a Canteen boy is taken as Rs.6,000/- per month. The number of dependants are '2' in number and therefore, $1/3^{\text{rd}}$ of the income is to be deducted towards personal expenses. The learned Tribunal failed to award future prospects to the income of the deceased.

10. Considering the monthly income at Rs.6,000/- and age of the deceased as 52 years as on the date of accident, as per judgment of the Hon'ble Supreme Court in **National Insurance Co. Ltd. Vs. Pranay Sethi and others**¹, if future prospects at 10% i.e., Rs.600/- is added to the monthly income, the net monthly income comes to Rs.6,600/- (Rs.6,000/- + Rs.600/-). From the net annual income of Rs.79,200/- (Rs.6,600x12), if 1/3rd is deducted towards personal expenses, the annual contribution of the deceased to the claimants would be Rs.52,800/-. If the said amount is multiplied by the appropriate multiplier '11' as was rightly taken by the Tribunal relying on **Smt. Sarla Varma Vs. Delhi Transport Corporation**², the total compensation under the head of 'loss of dependency' would be Rs.5,80,800/- instead of Rs.5,13,000/- which was awarded by the Tribunal. Further, the learned Tribunal has awarded an amount of Rs.50,000/- for loss of consortium, Rs.30,000/- for funeral expenses and Rs.25,000/- for loss of estate. However, in view of **Pranay Sethi's case (1 supra)**, the said finding is set aside. This Court is of the considered opinion that claimants are entitled to Rs.33,000/- towards funeral expenses and loss of estate (Rs.30,000/- + 10% enhancement thereon). In

¹(2017) 16 SCC 680

² (2009) 6 S.C.C. 121

addition thereof, claimants who are wife and daughter of the deceased are entitled Rs.44,000/- each towards consortium.

11. In the light of the aforesaid discussion, the claimants are entitled to the following amounts under different heads:

Head	Compensation awarded
(1) Loss of dependency	Rs.5,80,800/-
(2) Funeral expenses and Loss of Estate	Rs.33,000/-
(3) Loss of spousal consortium	Rs.44,000/- for appellant No.1
(4) Loss of parental consortium	Rs.44,000/- for appellant No.2
Total compensation awarded	Rs.7,01,800/-

12. In the result, the Motor Accident Miscellaneous Appeal is partly allowed enhancing the compensation amount awarded by the Tribunal from Rs.6,18,000/- to Rs.7,01,800/- as hereunder:

- a) The compensation amount shall carry interest at 9% p.a. from the date of petition till the date of realization.
- b) The respondent Nos.1 and 2 shall deposit the compensation amount along with interest within a period of (8) weeks from the date of receipt of copy of judgment.

- c) On such deposit, the appellants/ claimants are entitled to withdraw the entire amount in proportion to their shares awarded by the Tribunal, without furnishing the security.

Miscellaneous Petitions, if any, pending in this appeal, shall stand closed. There shall be no order as to costs.

RENUKA YARA, J

Date: 19.06.2025
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