

HIGH COURT FOR THE STATE OF TELANGANA

WEDNESDAY ,THE TWENTY SIXTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY TWO

PRESENT

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

M.A.C.M.A.No.1902 of 2015

Appeal Under Section 173 of Motor Vehicles Act against the Order and Decree made in M.V.O.P. No.156 of 2012 dated 20.09.2014 on the file of the Court of the Chairman, Motor Accident Claims Tribunal-cum-XIV Addl. Chief Judge (Fast Track Court), Hyderabad.

Between:

1. Smt.R.Rajeshwari, W/o late R.Krishna @ Raju, Age: 26 years, occ: Household,
 2. R.Lokesh, S/o late R.Krishna @ Raju, Age: 8 years, occ: Student,
 3. R.Lahari, D/o late R.Krishna @ Raju, Age: 6 years, occ: Student,
 4. R.Shankar, S/o late R.Kriskna @ Raju, Age: 23 years, occ: Nill,
 5. R.Geetha, D/o R.Kishan, Age: 22 years, occ: Nill,
 6. R.Kishan, S/o Age: 58 years, occ: Nil,
 7. R.Sathemma, W/o R.Kishan, Age: 53 years, occ: Nill,
- (2 & 3 being minor rep by mother 1st Appellants)**
All are R/o H.No.17-1-181/A/332, Saidabad, Hyderabad.

...APPELLANTS**AND**

1. M/s G.K.C. Products Ltd., rep. by its Manager, Sy.No.9, CII Green Building Lane, Kondapur, Hyderabad.
2. Oriental Insurance Co. Ltd., Rep. by its Regional Manager, Snehalatha Buildings, Near CM Camp Office, Greenlands, Begumpet, Hyderabad-16.

...RESPONDENTS

Counsel for the Appellants: SRI T. VISWARUPA CHARY

Counsel for the Respondent No.2: SRI G. VISHWESHWAR REDDY

Counsel for the Respondent No.1: NONE APPEARED

The Court delivered the following: JUDGMENT

THE HONOURABLE SMT. JUSTICE M.G. PRIYADARSINI

M.A.C.M.A. No. 1902 of 2015

JUDGMENT :

Dissatisfied with the quantum of compensation awarded by XI Additional Chief Judge, City Civil Court, Hyderabad vide order dated 20.09.2014 in M.V.O.P. No. 1561 of 2012, the present appeal is filed by the claimants.

2. On 22.04.2012, at about 16:30 hours, while the deceased, R. Krishna @ Raju, aged about 25 years, was returning to Hyderabad on a motorcycle, along with his friends, when they reached in front of Sri Laxminarsimha Venture, outskirts of Raigiri Village, the offending vehicle i.e., Water Tanker bearing No. AP 28 TB 7341, owned by the respondent No. 1 and insured with respondent No. 2, being driven by its driver at high speed in a rash and negligent manner, came in opposite direction and dashed against the motorcycle. As a result, the deceased fell down, crushed underneath the tanker and died on the spot. According to the claimants, the deceased was 25 years, working in a gold shop and earning Rs.10,000/- per month. Therefore, they laid a claim for Rs.15.00 lakhs towards compensation under different heads.

3. The learned Tribunal, considering the claim of the appellants, counter filed by the Insurance Company and on evaluation of oral

and documentary evidence, allowed the O.P. in part, awarding a total compensation of Rs.8,46,000/- along with costs and interest @ 7.5% per annum from the date of petition till the date of realization, to be deposited by the respondents within three months from the date of said order.

4. Heard the learned counsel for the appellants and the learned Standing Counsel for the Insurance Company, respondent No. 2. Perused the material available on record.

5. In this appeal, the learned Counsel for the appellants-claimants has argued that the claimants, in order to substantiate their claim that the deceased was earning Rs.10,000/- per month working in gold shop, produced Ex.A.6, salary certificate, issued by the employer apart from examining P.W.3, Accountant of the employer, who has categorically deposed that the deceased was working in their organization for the past ten years as Salesman and he was being paid Rs.10,000/- per month, and therefore, in the absence of any contra evidence adduced by the Insurance Company, the Tribunal ought to have fixed the income of the deceased at Rs.10,000/- per month, but erroneously took the income at Rs.5,000/- which is very meagre. Further, relying on the decision of the Apex Court reported in **National Insurance Company Limited**

Vs. Pranay Sethi and others¹, the learned counsel has contended that to the existing income of the deceased, 40% ought to have been added towards future prospects. Even the amount granted under conventional heads is too meagre and needs enhancement as per the decision in **Pranay Sethi** (supra). Therefore, the learned counsel seeks enhancement of compensation awarded by the learned Tribunal.

6. On the other hand, the learned Standing Counsel for the Insurance Company, respondent No. 2, has contended that the learned Tribunal has adequately granted the compensation and the same needs no interference by this Court.

7. There is no dispute with regard to the manner of the accident and the rash and negligent driving of the offending vehicle by its driver in causing the accident on 22.04.2012 that resulted in the death of the deceased. As seen from the record, the claimants-appellants had claimed that the deceased was working as Salesman in H. Vital Das Jewellers, Somajiguda, Hyderabad and getting Rs.10,000/- as salary. To substantiate their claim, they have also examined the Accountant of the said organisation as P.W.3, who has categorically deposed that the deceased was working as Salesman in their organisation for the past ten years and getting salary of

¹ 2017 ACJ 2700

Rs.10,000/- per month. There is no reason for the tribunal to brush aside the said consistent evidence. Further the respondents have not adduced any rebuttal evidence to prove that the deceased is not working as Salesman nor earning Rs.10,000/- per month. Therefore, this Court is inclined to assess the income of the deceased at Rs.10,000/- per month. Since the deceased was 28 years, as seen from Ex.A.5, Post Mortem Examination Report, as per the decision of the Apex Court in **Pranay Sethi** (supra), towards future prospects at 40% of the actual income of the deceased needs to be added. Hence, the future income of the deceased would be Rs.14,000/- per month (Rs.10,000 + 40% thereof). As the dependents are seven in number, after deducting 1/5th therefrom towards personal expenses of the deceased, the net monthly future income of the deceased is Rs.11,200/- and the annual contribution to the family comes to Rs.1,34,400/-. As per the decision of the Apex Court in **Smt. Sarla Varma v. Delhi Transport Corporation and another**², considering the age of the deceased as 28 years, the appropriate multiplier is '17'. Therefore, taking the same into consideration, the total loss of dependency of the appellants comes to Rs.22,84,800/-. Thus, under the head of loss of dependency, the compensation is enhanced to Rs.22,84,800/-, as against Rs.8,16,000/- awarded by the Tribunal. In addition thereto, under the conventional heads, as against the

² 2009 (6) SCC 121

amount of Rs.30,000/- awarded by the Tribunal, the claimants are granted Rs.77,000/- as per the decision of the Apex Court in **Pranay Sethi** (supra). Thus, in all, the compensation is enhanced to Rs.23,61,800/-, as against Rs.8,46,000/- awarded by the Tribunal.

8. In the result, the M.A.C.M.A. is allowed by enhancing the compensation amount awarded by the Tribunal from Rs.8,46,000/- to Rs.23,61,800/-. The enhanced amount shall carry interest at 7.5% per annum from the date of order passed by the Tribunal till the date of realization, to be payable by the respondents jointly and severally. The amount of compensation shall be apportioned among the appellants-claimants in the ratio as ordered by the Tribunal. The claimants shall pay deficit Court fee on the enhanced compensation, since the initial claim was for Rs.15,00,000/-. If the deficit court fee is not paid as per Rule 475 of M.V.Rules before the Tribunal, the claimants are not entitled for execution of Award in respect of enhanced compensation. There shall be no order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

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SD/-B.SATYAVATHI
DEPUTY REGISTRAR

SECTION OFFICER

To,

1. The XI Additional Chief Judge, City Civil Court, Hyderabad.
2. One CC to Sri T. Viswarupa Chary, Advocate [OPUC]
3. One CC to Sri G. Vishweshwar Reddy, Advocate [OPUC]
4. Two CD Copies

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[Signature]

HIGH COURT

DATED: 26/10/2022

JUDGMENT

MACMA.No.1902 of 2015



**ALLOWING THE MACMA
WITHOUT COSTS**

HIGH COURT FOR THE STATE OF TELANGANA

WEDNESDAY, THE TWENTY SIXTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY TWO

PRESENT

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

M.A.C.M.A.No.1902 of 2015

Between:

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This appeal coming on for hearing and upon perusing the grounds of appeal, the Judgment and Decree of the Lower Court and the material papers in the Suit and upon hearing the arguments of Sri T. Viswarupa Chary, Advocate for the Appellants and of Sri G. Vishweshwar Reddy, Advocate for the Respondent No.2 and of the Respondent No.1 not appeared either in person or by Advocate.

This Court doth Order and Decree as follows:

1. That the Motor Accident Civil Miscellaneous Appeal be and hereby is allowed.
2. That the compensation amount awarded by the Tribunal be and hereby is enhanced from Rs.8,46,600/- to Rs.23,61,800/-
3. That the enhanced amount shall carry interest at 7.5% per annum from the date of order passed by the Tribunal till the date of realization, to payable by the respondents jointly and severally.
4. That the amount of compensation shall be apportioned among the appellants-claimants in the ratio as ordered by the Tribunal.
5. That the amounts shall pay deficit Court fee on the enhanced compensation, since the initial claim was for Rs.15,00,000/-
6. That if the deficit court fee is not paid as per Rule 475 of M.V. Rules before the Tribunal, the claimants are not entitled for execution of Award in respect of enhanced compensation.
7. That there shall be no order as to costs in this Appeal.

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SD/-B.SATYAVATHI
DEPUTY REGISTRAR

SECTION OFFICER

To,

1. The XI Additional Chief Judge, City Civil Court, Hyderabad.
2. Two CD Copies

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[Handwritten signature]

HIGH COURT

DATED: 26/10/2022

DECREE

MACMA.No.1902 of 2015

**ALLOWING THE MACMA
WITHOUT COSTS**

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