(2023) 02 TEL CK 0024

In the Telangana High Court

Case No : Motor Accident Civil Miscllaneous Appeal No. 2104 Of 2014

Indoorkar Mohan Kumari 2 Ors — APPELLANT

Vs

Md.Shariff Anr — RESPONDENT

Date of Decision : 07-02-2023

Acts Referred:

Citation : (2023) 02 TEL CK 0024

Hon'ble Judges : Namavarapu Rajeshwar Rao, J

Bench : Single Bench

Advocate : T Viswarupa Chary, A Jayanthi

Final Decision : Allowed

Judgement

1. Heard learned Counsel for the appellants/claimants and learned counsel for the 2nd respondent/Insurance Company.

2. Aggrieved by the Order and decree dt.16.01.2006 in O.P No.956 of 2001 passed by the Chairman, Motor Accidents Claims Tribunal-Cum-I Additional District Judge, Rangareddy District (for short "the Tribunal"), the claimants preferred the present appeal seeking enhancement of compensation.

3. Vide the aforesaid order, the Tribunal has awarded an amount of Rs.1,95,000/- with proportionate costs and interest @9% per annum from the date of petition till the date of realization as against the claim of Rs.2,50,000/- laid by the appellants/claimants.

4. On the analysis of the entire evidence, the Tribunal gave a specific finding that the accident had occurred due to rash and negligent driving of the driver of the offending vehicle belonging to the first respondent. Admittedly, the 2nd respondent/Insurance Company did not file any appeal challenging the said finding and therefore, the said finding attained finality.

5. The only question that falls for consideration before this Court is with regard to the quantum of compensation.

6. It is the specific contention of the appellants that the Tribunal failed to follow the well established multiplier system, and contended that at the time of death of the deceased, he was 20 years and the same is undisputed. In view of the decision of the Apex Court in Munna Lal Jain V. Vipin Kumar Sharma 2015(6) SCC 347 when the deceased was a bachelor, the age of the deceased has to be considered while determining the multiplier and not the age of the mother. As such, the appropriate multiplier as per the decision of the Apex Court in Sarla Verma Vs. Delhi Transport Corporation (2009) 6 SCC 121 is 18.

7. With regard to monthly earning capacity, it is the contention of the appellants that the deceased was working as a Computer Operator at the time of the accident and he used to earn an amount of Rs.4,000/- per month. No documentary evidence was filed in proof of the same. To overcome this hindrance, learned Counsel for the appellants relied upon the decision rendered by the Hon'ble Supreme Court in Ramchandrappa V. Manager, Royal Sundaram Alliance Insurance Co. Ltd. 2011(6) ALD 75 (SC). Wherein it was held that in the absence of any documentary evidence to substantiate the claim regarding monthly income, the appellant therein was a coolie and his monthly income was considered @ Rs.4,500/- and the same principle may be applied in the case on hand. Considering the same, the monthly earning capacity of the deceased can be considered as Rs.4,000/- as claimed by the appellants. Thus, the annual income of the deceased can be taken as Rs.4,000/- x 12 = Rs.48,000/-.

8. As per Pranay Sethi 2017 (16) SCC 680, the future prospects to be added is to be considered as 40%, as the deceased was below 40 years of age i.e Rs.48,000/- + 40% (Rs.19,200/-) = Rs.67,200/-. Since the deceased was a bachelor ½ of the above amount is to be deducted towards personal expenses which comes to Rs.33,600/-(Rs.67,200 – Rs.33,600/-). Considering the age of the deceased, the multiplier for calculation of loss of dependency as per Pranay Sethi (supra) is to be taken as 18. Hence, Rs.33,600/- x 18 = 6,04,800/-. Loss of Estate was awarded by the Tribunal at Rs.5,000/-, which is hereby enhanced to 15,000/- and funeral expenses was awarded Rs.5,000/-, which is hereby enhanced to Rs.15,000/-, by adding 10% as per Pranay Sethi (supra) i.e. Rs.30,000/- + 3,000/- = Rs.33,000/-. The appellant Nos. 1 and 2 are entitled to Rs.40,000/- each towards filial consortium as per Magma General Insurance Company Limited V. Nanu Ram alias Chuhru Ram (2018) 18 SCC 130 which comes to Rs.80,000/-.

9. Accordingly, the appellants are entitled to Rs.6,04,800/- (Loss of dependency) + Rs.33,000/- (under conventional heads) + Rs.80,000/- (Filial consortium). In all, Rs.7,17,800/- (Rupees Seven Lakh, seventeen thousand and eight hundred only).

10. In the result, the appeal is allowed and accordingly, the order and decree dt.16.01.2006 in O.P No.956 of 2001 passed by the Chairman, Motor Accidents Claims Tribunal-Cum-I Additional District Judge, Rangareddy District is modified enhancing the compensation from Rs.1,95,000/- to Rs.7,17,800/- (Rupees Seven

Lakh, seventeen thousand and eight hundred only) with interest at the rate of 7.5% on the enhanced amount from the date of petition till the date of realization. Respondents are jointly and severally liable to pay the compensation amount. The compensation amount shall be apportioned among the claimants in the same proportion in which original compensation amounts were directed to be apportioned by the Tribunal. The claimants are directed to pay the deficit Court fee within one month from the date of receipt of a copy of this Judgment. Similarly, 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 the certified copy of this judgment. There shall be no order as to costs.

As a sequel thereto, miscellaneous applications, if any, pending in this appeal, shall stand closed.