(2022) 08 TEL CK 0072

High Court For The State Of Telangana:: At Hyderabad

Case No: Motor Accident Civil Miscllaneous Appeal No. 1207, 1274 Of 2015

Maloth Chittemma 3 Others		APPELLANT
	Vs	
Managing Director		RESPONDENT

Date of Decision: Aug. 23, 2022

Acts Referred:

- Motor Vehicles Act, 1988 - Section 166

Hon'ble Judges: G. Sri Devi, J; M.G. Priyadarsini, J

Bench: Division Bench

Advocate: A Durga Bhaskar

Final Decision: Allowed/Dismissed

Judgement

1. M.A.C.M.A.No.1207 of 2015 is preferred by the appellants, who are the claimants before the Tribunal, assailing the order and decree of the

Chairman, Motor Accidents Claims Tribunal (V Additional District Judge), Kothagudem made in M.V.O.P. No.517 of 2013 dated 23.01.2015 on the

ground of inadequacy of compensation.

2. M.A.C.M.A. No.1274 of 2015 is preferred by the appellant-Andhra Pradesh State Road Transport Corporation, who is the respondent before the

Tribunal, assailing the very same order and decree of the Tribunal on the ground that the impugned Order and decree of the trial Court are contrary to

law, evidence on record and illegal and that the compensation awarded by the Tribunal is excessive and exorbitant.

3. The claimants filed the M.V.O.P. under Section 166 of the Motor Vehicles Act, alleging that on 07.09.2012 the deceased went to Bhupalpally to

meet his friend P.Rami Reddy at about 14-00 hours and he took the motorcycle of his friend for dropping to the bus stand on which the deceased and

son of his friend were proceeding towards Bhupalpally bus stand and on the way at about 14-15 hours when they reached near Srinivasa Lorry

Transport Company, at that time the driver of RTC bus bearing No. AP.28.Z.3231 drove it in a rash and negligent manner at high speed and dashed

the motorcycle of the deceased. As a result of which, the rider and pillion rider i.e., deceased and son of his friend, fell down and that the deceased

received severe head injury and was shifted to Area Hospital, Bhupalpally where he was given first aid and due to serious condition, he was shifted to

Kamineni Hospital, Hyderabad, where he was succumbed to the injuries on 22.9.2012 at 19-30 hours. Therefore, they laid a claim for Rs.40,00,000/-

towards compensation under various heads.

4. Considering the claim and the counter filed by the Corporation and on evaluation of the evidence, both oral and documentary, the learned Tribunal

has allowed the O.P. in part, directing the respondent-Corporation to pay the compensation of Rs.33,57,848/- with interest @ 7.5% per annum from

the date of petition till the date of realisation with proportionate costs.

5. Heard the learned counsel for the claimants and the learned Standing Counsel for respondent-Andhra Pradesh State Road Transport Corporation.

6. The learned counsel for the claimants contends that the order and decree of the Tribunal is contrary to law, weight of evidence and probabilities of

the case.

7. On the other hand, the learned Standing Counsel for the respondent-Corporation contended that the Tribunal failed to appreciate the oral and

documentary evidence and misconstrued the documents and that the compensation awarded by the Tribunal is excessive and exorbitant.

8. With regard to the manner of accident, the Tribunal after evaluating the evidence of PWs.1 to 4 and after considering the documentary evidence on

record, rightly came to the conclusion that the accident occurred due to the rash and negligent driving of the crime vehicle.

9. With regard to the compensation, the deceased was a permanent employee in the Singareni Collieries Company Limited, Kothagudem and at the

time of his death, he was aged about 33 years. A perusal of the record, it transpires that the gross salary of the deceased at the time of his death was

Rs.32,136.39 ps. However, basing on the salary slip, the net salary of the deceased Rs.24,574/- per month was taken into consideration by the

Tribunal which shows that the statutory deductions which were already been deducted by the employer of the deceased. The statutory deductions

including the Income Tax by the Company from the gross monthly salary of the deceased amounting to nearly Rs.8,000/- per month. Hence in our

considered Ã, Ã, opinion, there is no need to further deduct the income tax from the net salary of the deceased which was shown by the Company

itself.

10. According to Ex.A-9 Salary Certificate of the deceased for the month of July 2012, the net salary of the deceased was Rs.24,574/- which was

taken into consideration by the Tribunal. However, the Tribunal has not taken into consideration the future prospects of the deceased while assessing

the compensation in the light of the principles laid down by the Apex Court in National Insurance Company Limited Vs. Pranay Sethi and others 2017

ACJ 2700. Since the deceased was a permanent employee and was getting the net salary of Rs.24,574/-, the claimants are also entitled to the future

prospects and since the deceased was aged about 33 years and below 43 years at the time of accident, 50% of the income is to be added towards

future prospects. Then it comes to Rs.36,861/- which can be rounded off to Rs.36,860/-. Since the deceased has left as many as four persons as his

dependants, 1/4th of his income is to be deducted towards his personal and living expenses. Then the contribution of the deceased would be

Rs.27,645/- per month (36,860 Ã¢â‚¬" 9215 = 27,645/-). Since the deceased was aged about 33 years at the time of accident, the appropriate multiplier in the light of the judgment of the Apex Court in Sarla Verma v. Delhi Transport Corporation 2009 ACJ 1298 (SC) would be Ã¢â‚¬Å“16Ã¢â‚¬. Then the loss of

dependency would be Rs.27645 x 12 x 16 =Rs.53,07,840/-. Apart from the same, the claimants being the dependants are entitled to a further sum of

Rs.77,000/- under the conventional heads as per the decision of the Apex Court in Pranay Sethi (supra). Thus, in all, the compensation is enhanced to

Rs.53,84,840/-, from Rs.33,57,848/- as awarded by the Tribunal.

11. At this stage, the learned counsel for the appellants has submitted that the claimants/appellants have only claimed the sum of Rs.40 lakhs, the

Tribunal has already awarded sum of Rs33,57,848/-. In Laxman @ Laxman Mourya Vs. Divisional Manager, Oriental Insurance Company Limited

and another (2011) 10 SCC 756, the Apex Court while referring to Nagappa Vs. Gurudayal Singh 2003 ACJ 12 (SC) held as under:

Ã¢â‚¬Å“It is true that in the petition filed by him under Section 166 of the Act, the appellant had claimed compensation of Rs.5,00,000/- only, but as held in

Nagappa vs. Gurudayal Singh (2003) 2 SCC 274, in the absence of any bar in the Act, the Tribunal and for that reason any competent Court is entitled

to award higher compensation to the victim of an accident.Ã¢â‚¬â€‹

12. In view of the Judgments of the Apex Court referred to above, the claimants are entitled to get more amount than what they have claimed.

13. In the result, M.A.C.M.A. No.1207 of 2015 filed by the claimants is allowed by enhancing the compensation amount awarded by the Tribunal

from Rs.33,57,848/- to Rs.53,84,840/-. The enhanced amount shall carry interest at 7.5% p.a. from the date of order passed by the Tribunal till the

date of realization, to be payable by the respondent-Corporation. 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.40,00,000/-. On such payment of court fee only, the claimants are entitled to withdraw the amount.

Whereas, M.A.C.M.A. No.1274 of 2015 filed by the respondent-Corporation is dismissed. There shall be no order as to costs.

As a sequel, the miscellaneous applications, if any pending, shall stand closed.