
(2022) 12 TEL CK 0015

High Court For The State Of Telangana:: At Hyderabad

Case No: Motor Accident Civil Miscellaneous Appeal No. 2565 Of 2017

K Varalakshmi, Krishna
Dist 2 Others

APPELLANT

Vs

E Satyanarayana

RESPONDENT

Date of Decision: Dec. 5, 2022

Acts Referred:

- Motor Vehicles Act, 1988 - Section 166

Hon'ble Judges: M.G.Priyadarsini, J

Bench: Single Bench

Advocate: T Viswarupa Chary

Final Decision: Allowed

Judgement

1. Dissatisfied with the quantum of compensation awarded in the order and decree, dated 18.11.2016 passed in M.V.O.P. No.120 of 2013 on the file

of the Motor Accidents Claims Tribunal-cum-XIII Additional Chief Judge (Fast Track Court), City Civil Court at Hyderabad (for short "the

Tribunal"), the appellants/claimants preferred the present appeal seeking enhancement of the compensation.

2. For the sake of convenience, hereinafter, the parties will be referred to as per their array before the Tribunal.

3. The facts, in issue, are as under:

The claimants filed a petition under Section 166 of the Motor Vehicles Act, 1988 claiming compensation of Rs.9,00,000/- for the death of one K.

Subramanyam @ Venkata Subba Rao (hereinafter referred to as "the deceased"), who died in a motor vehicle accident that occurred on

15.09.2012. It is stated that on the fateful day, while the deceased, along with his friend, was proceeding on a motorcycle, when they reached near

Woodland Restaurant, Dr. A.S. Rao Nagar, the rider lost control over the motorcycle, hit the divider, as a result of which, the deceased fell down and

sustained grievous injuries. While undergoing treatment at Gandhi Hospital, the deceased succumbed to the injuries on 16.09.2022. According to the

claimants, the deceased was 20 years at the time of accident, working as private employee and earning Rs.8,000/- per month. Therefore, they filed

the O.P. claiming compensation of Rs.9.00 lakhs against the respondents.

4. Before the tribunal, while the owner of the vehicle, respondent No. 1 stood ex parte, the insurance company, respondent No. 2 filed counter denying

the manner in which the accident took place, including the age, avocation and income of the deceased. It is also stated that the quantum of

compensation claimed is excessive, baseless and prayed to dismiss the petition.

5. Considering claim, counter and the oral and documentary evidence available on record, the tribunal held that the accident occurred due to the rash

and negligent riding of the bike by its rider and accordingly awarded an amount of Rs.7,30,000/- with interest @ 9% per annum from the date of

petition till the date of realization to be payable by the respondents jointly and severally. Challenging the quantum of compensation as meagre, the

present appeal came to be filed by the claimants.

6. Heard both sides and perused the record.

7. The main contention of the learned counsel appearing for the appellants is that though the claimants had asserted that the deceased was working as

private employee and earning Rs.8,000/-per month and though they have produced Ex.A.6, salary certificate, to the effect that the deceased was

drawing Rs.8,000/-per month, in the absence of any contra evidence, the tribunal ought to have accepted the avocation of the deceased and the

income, but erroneously fixed the annual income of the deceased at Rs.70,000/-. It is further contended that the claimant Nos.1 & 22, being the

parents of the deceased, ought to have been granted Rs.40,000/- each towards filial consortium in view of the judgment of the Apex Court in *Magma*

General Insurance Company Limited v. Nanu Ram @ Chuhru Ram and others (2018) 18 SCC 130. Further, as per the decision of the Apex Court in

National Insurance Company Limited Vs. Pranay Sethi and others 2017 ACJ 2700, the claimants are entitled to addition of 40% towards future

prospects to the established income of the deceased. Therefore, the learned counsel seeks enhancement of the compensation awarded by the tribunal.

8. On the other hand, the learned Standing Counsel for the respondent No.2, Insurance company, has contended that though the claimants have

produced Ex.A.6, salary certificate, they did not choose to examine the concerned person to substantiate Ex.A.6 and therefore, the tribunal has rightly

assessed the annual income of the deceased at Rs.70,000/- and therefore, the compensation amount as was awarded by the tribunal needs no

interference by this Court. It is contended that the interest granted @ 9% per annum is excessive. He also submits that as held by the Apex Court in

several decisions interest should be restricted to 7.5% per annum.

9. The finding of the Tribunal with regard to the manner in which the accident took place has become final as the same is not challenged by either of

the respondents.

10. As regards the quantum of compensation, the claimants claimed that the deceased was working as private employee and drawing salary of

Rs.8,000/- per month. They have also produced Ex.A.6, salary certificate, to substantiate their claim regarding the income of the deceased.

However, as rightly observed by the tribunal, the person who issued Ex.A.6, salary certificate, was not examined. But, considering the age of the

deceased, considering the prevailing minimum rate of wages at the relevant point of time, this Court feels that the annual income of Rs.70,000/- fixed

by the tribunal is not proper. Hence, this court is inclined to fix the monthly income of the deceased at Rs.6,500/-. Considering the fact that the

deceased was 20 years old at the time of the accident, the claimants are entitled to addition of 40% towards future prospects to the established

income, as per the decision of the Hon'ble Supreme Court in Pranay Sethi (supra). Therefore, the future monthly income of the deceased comes

to Rs.9,100/-(Rs.6,500/- + Rs.2,600/- being 40% thereof). From this, since the deceased was bachelor, 50% is to be deducted towards personal

expenses of the deceased following the decision in Sarla Verma (supra). After deducting 50% therefrom towards his personal and living expenses, the

contribution of income by the deceased to the family comes to Rs.4,550/- per month. Since the age of the deceased was 20 years at the time of the

accident, as rightly contended by the learned counsel for the claimants, the appropriate multiplier is 18 as per the guidelines laid down by the

Apex Court in Sarla Verma (supra). Adopting multiplier 18, the total loss of dependency would be Rs.4,550/- x 12 x 18 = Rs.9,82,800/-. That

apart, the claimants are entitled to Rs.33,000/- under the conventional heads as per the decision of the Apex Court in Pranay Sethi (supra). Further,

the claimant Nos. 1 & 2, being the parents of the deceased, are granted Rs.40,000/- each under the head of filial consortium as per the decision of the

Apex Court in Nanu Ram @ Chuhru Ram (supra). Thus, in all, the claimants are entitled to Rs.10,95,800/-.

11. Insofar as the interest awarded by the Tribunal is concerned, the appropriate rate of interest that can be granted is 7.5% per annum on the

compensation awarded by the Tribunal from the date of petition till realization, as per the decision of the Apex Court in Rajesh and others v. Rajbir

Singh and others 2013 ACJ 1403 = 2013 (4) ALT 35.

Hence, the interest granted by the Tribunal @ 9% per annum is reduced to 7.5% per annum.

12. Accordingly, M.A.C.M.A. is allowed. The compensation amount awarded by the Tribunal is enhanced from Rs.7,30,000/- to Rs.10,95,800/-. The

rate of interest awarded by the tribunal on the compensation amount from the date of filing of the petition till its realisation is reduced from 9% to 7.5%

per annum. So also, the amount now enhanced by this Court shall carry interest at 7.5% p.a. from the date of passing of order by the Tribunal till the

date of realization. The enhanced amount shall be apportioned in the manner as ordered by the Tribunal. Time to deposit the entire compensation is

two months from the date of receipt of a copy of this judgment. On such deposit, the claimants are entitled to withdraw their respective share

amounts. However, the claimants are directed to pay the deficit court fee. There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.