

**HON'BLE SRI JUSTICE A. SHANKAR NARAYANA**

**M.A.C.M.A. Nos. 3358 AND 3359 OF 2005**

**COMMON JUDGMENT:**

M.A.C.M.A.No.3358 of 2005 (former appeal) is preferred by the petitioners in O.P.No.1449 of 2002 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-XII Additional Chief Judge, City Civil Court (Fast Track Court), Hyderabad (for short, 'the Tribunal') dissatisfied with the award of Rs.51,000/- as compensation by the order dated 30.03.2005 for the death of one Anjaiah Goud, who was husband and father of the appellants-petitioners, in a road accident, as against the claim of Rs.2,00,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') r/w Rule 475 of the Rules framed thereunder; whereas, M.A.C.M.A. No.3359 of 2005 (latter appeal) is preferred by the petitioner in O.P. No.1448 of 2002 on the file of the very same Tribunal dissatisfied with the award of Rs.23,000/- as compensation by the order dated 29.10.2004 for the injuries sustained by him in the very same accident, as against the claim of Rs.1,00,000/- laid under Section 166 of the Act.

2. Appellants in the former appeal are the petitioners and the appellant in the latter appeal is the petitioner, while the respondent herein, who is the insurer of the Motor cab bearing registration No.AP 13U 8395, is

respondent No.1 in both the original petitions. Owner of the accident vehicle, who is not shown as party herein in both the appeals, is respondent No.2 in both the original petitions.

3. For the sake of convenience, the parties hereinafter referred to as they were arrayed before the Tribunal in the original petition.

4. The facts in brief are that on 04.04.2002 at about 5-45 p.m., the said Anjaiah Goud (deceased) and one P.Bhujanga Reddy, who is the appellant-petitioner in the latter appeal, were proceeding on the scooter bearing registration No.AP 28P 8086, during which time, a motor cab bearing registration No.AP 13U 8395 driven at high speed in a rash and negligent manner came and hit the scooter, due to which, both of them fell down and sustained injuries. The said Anjaiah Goud, since received head injury, when taken to Osmania General Hospital, was declared dead. The petitioner in the latter appeal was treated in Sree Sairam Hospital, Hyderabad and also treated in NIMS Hospital, where he had undergone treatment for the grievous injuries sustained by him. Thus, both the claims were laid for the aforesaid amounts.

5. Owner of the accident vehicle, who was respondent No.2 in the original petition, remained *ex parte* in both the claim petitions. Respondent No.1-Insurance Company opposed both the claims by raising various

pleas.

6. Basing on the said pleadings, the Tribunal framed identical issues in both the claims. During enquiry, in the former appeal, before the Tribunal, petitioner No.2 examined himself as P.W.1 besides marking Exs.A.1 to A.7 to substantiate their claim; whereas, in the latter appeal, the petitioner examined himself as P.W.1 and marked Exs.A.1 to A.5; and, on behalf of the respondent-Insurance Company, no witnesses were examined in both the claims and no documents were filed in the former claim; whereas, in the latter claim, copy of insurance policy was marked as Ex.B.1 on consent.

7. On appraisal of evidence on record, both, oral and documentary, let in by the petitioner, the Tribunal recorded a finding on issue No.1 in both the petitions that due to rash and negligent driving of the driver of the motor cab, the accident had occurred.

8. On issue No.2, the Tribunal, though, made general observations at page No.6 of its order that a person aged 60 years may be earning Rs.100/- per day or no amount on some days, then observing that there cannot be any expectations of future life of the deceased and future dependency by the petitioner on him and taking the aid of Section 140 of the Act, fixed Rs.50,000/- as reasonable compensation for loss of life of the deceased and another sum of Rs.1,000/- making a total of

Rs.51,000/- and, accordingly, awarded the same as compensation by apportioning it in equal shares to petitioner Nos.1 to 4.

9. In the latter claim, the Tribunal having found that the injured-claimant sustained one grievous injury, granted Rs.1,000/- towards clothing and articles, Rs.2,000/- towards transport charges as the petitioner was treated in NIMS Hospital, Rs.2,000/- towards extra nourishment, Rs.6,000/- towards loss of temporary earnings for two months during the period of treatment and rest, though, the petitioner was an agriculturist, Rs.5,000/- towards medical treatment, Rs.2,000/- towards pain and suffering and Rs.5,000/- towards injury to his leg, making a total of Rs.23,000/- with interest at 9% per annum.

10. It is the aforesaid orders, which are under challenge in the instant appeals. In the former appeal, the appellants contend that the Tribunal has granted meager amount as compensation and without there being any basis arrived at Rs.51,000/-. It is also stated that though, the income was taken as Rs.3,000/- per month after deducting normal deductions, his income would come to Rs.24,000/- per annum and the Tribunal ought to have applied multiplier '6' and ought to have granted Rs.15,000/- towards consortium, Rs.1,000/- towards transport charges and, thus, a minimum of Rs.1,60,000/-

ought to have granted and, therefore, sought to grant the balance amount.

11. In the latter appeal, the appellant also agitates that the Tribunal went wrong in appreciating the evidence on record stating that the petitioner had to take six months bed rest on account of grievous injury to his head and, though, medical bills were submitted to the extent of Rs.15,000/-, the Tribunal granted less amount and granting Rs.2,000/- towards pain and suffering and Rs.5,000/- towards injury as such, is on lower side and, therefore, sought to grant the balance amount.

12. Heard Sri K.Siva Reddy, learned counsel for the appellants in both the appeals, Sri T.Ramulu, learned Standing Counsel for respondent No.2-Insurance Company in the former appeal. No representation for respondent No.2-Insurance Company in the latter appeal. None appears for respondent No.1 in both the appeals.

13. M.A.C.M.A. No.3358 of 2005:

This appeal relates to death of Anjaiah Goud. It is the case of the petitioners that the deceased was an agriculturist even in the latter case, the petitioner was an agriculturist. The Tribunal, at one stage, observed that a person aged 60 years may be earned Rs.100/- per day. In the latter case, the Tribunal has taken the income as Rs.3,000/- per month, where the petitioner was also an agriculturist. Certainly, earnings of the deceased has to be

taken as Rs.3,000/- per month. Concerning the deduction, though, the petitioners are four in number, petitioner No.2 cannot be construed as dependent in view of the fact that he described himself his occupation as 'business' and when he is excluded, the claimants would be three in number. In which case,  $\frac{1}{3}^{\text{rd}}$  is permissible as per the decision of the Hon'ble Supreme Court in **Sarla Verma & others Vs. Delhi Transport Corporation and another**<sup>[1]</sup>, which would be Rs.2,000/- per month or Rs.24,000/- per annum. So far as the multiplier is concerned, the table formulated in the decision of the Hon'ble Supreme Court in **Sarla Verma's** case (supra 1) provides '9' for the persons aged between 56 and 60 years. When the multiplier '9' is applied to the multiplicand Rs.24,000/-, the loss of dependency works out to Rs.2,16,000/-. Towards conventional sum, since the petitioner No.1 being wife, is entitled some amount towards loss of consortium and the petitioners are also entitled to amounts towards loss of estate and funeral expenses. Therefore, a sum of Rs.50,000/- is granted in view of the decision of the Hon'ble Supreme Court in **Ramilaben Chinubhai Parmar Vs. National Insurance Company**<sup>[2]</sup>.

14. Petitioners laid the claim for Rs.2,00,000/- only, but, certainly, they cannot be deprived of Rs.2,66,000/-, though, it exceeds the claim made by them,

in view of the decisions of the Hon'ble Apex Court in **Nagappa v. Gurudayal Singh and others**<sup>[3]</sup>, **Sri Laxman @ Laxman Mourya v. Divisional Manager, Oriental Insurance Company Limited**<sup>[4]</sup> and **Rajesh and others Vs. Rajbir Singh and others**<sup>[5]</sup>, wherein, it was held that it is the duty of the Courts to award just, equitable, fair and reasonable compensation with reference to the settled principles of law irrespective of the claim made.

15. Thus, the petitioners are entitled to a total sum of Rs.2,66,000/- (Rupees two lakhs and sixty six thousand) as against Rs.51,000/- granted by the Tribunal, towards compensation and the same is accordingly granted. However, the said amount of compensation shall be apportioned among petitioner Nos.1 to 4 as Rs.1,00,000/-, Rs.76,625/-, Rs.76,625/- and Rs.12,750/-, respectively. So far as the rate of interest is concerned, the Tribunal granted the same at 6% per annum and the same is enhanced to 7.5% per annum from the date of petition till realization on the entire amount in view of the decision of the Hon'ble Apex Court in **Rajesh's** case (supra 5). However, the petitioners are directed to pay Court fee on the excess amount granted by this Court than the claim within a period of three months from today.

16. M.A.C.M.A. No.3359 of 2005:

In this appeal, the amount awarded by the Tribunal under various heads has been narrated in the above. The amount of Rs.2,000/- granted by the Tribunal towards extra nourishment is enhanced to Rs.5,000/-. The amount of Rs.2,000/- granted by the Tribunal towards pain and suffering is enhanced to Rs.10,000/-, since the petitioner sustained grievous injury. Concerning the amount of Rs.5,000/- granted by the Tribunal towards injury, the same is also enhanced to Rs.15,000/-. The amounts of Rs.1,000/- towards clothing and articles, Rs.2,000/- towards transport charges, Rs.6,000/- towards loss of temporary earnings and Rs.5,000/- towards medical treatment granted by the Tribunal are maintained.

17. Thus, the petitioner is entitled to a total sum of Rs.44,000/- (Rupees forty four thousand) as against Rs.23,000/- granted by the Tribunal, towards compensation and the same is accordingly granted. So far as the rate of interest is concerned, the Tribunal granted the same at 9% per annum and the same is maintained on the amount granted by the Tribunal and at 7.5% per annum on the enhanced amount of compensation from the date of petition till realization in view of the decision of the Hon'ble Apex Court in **Rajesh's** case (supra 5).

18. Accordingly, M.A.C.M.A. No.3358 of 2005 is allowed and M.A.C.M.A. No.3359 of 2005 is partly allowed

modifying the orders passed by the Tribunal, by enhancing the compensation with interest, as indicated above, and confirming the same in all other respects. There shall be no order as to costs.

19. As a sequel thereto, miscellaneous applications, if any pending in both the appeals, stand closed.

---

**A. SHANKAR NARAYANA, J**

8<sup>th</sup> February, 2016

siva

---

[\[1\]](#) (2009) 6 SCC 121

[\[2\]](#) LAWS (SC) -2014-4-67

[\[3\]](#) AIR 2003 SC 674

[\[4\]](#) 2012 ACJ 191 (SC)

[\[5\]](#) 2013 ACJ 1403