

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

MACMA No. 848 of 2010

JUDGMENT:

This appeal is arising out of the order dated 03.03.2010 in O.P.No.715 of 2008 on the file of the Motor Accidents Claims Tribunal (I Additional District Judge), Nizamabad. The appellants herein are the petitioners in the said Original Petition filed under Section 166 of the Motor Vehicles Act, claiming compensation of Rs.3,00,000/- on account of the death of their son, who was a 11 year old minor boy, in a motor vehicle accident that occurred on 17.08.2007.

2. Brief facts of the case are that on 17.08.2007, at about 8:30 PM, the deceased was going on his bicycle to Megha Public School and when he reached Hanuman Temple, one RTC Bus bearing No. AP-10Z-8237 came from Bodhan side at high speed in opposite direction and dashed against the bicycle of the deceased resulting in his instantaneous death. Alleging that the accident occurred solely due to the rash and negligent driving by the driver of the crime bus, the appellants filed the aforesaid claim petition seeking compensation of Rs.3,00,000/- against respondents 1 and 2, who are Depot Manager, and Managing Director of APSRTC, respectively, of the crime bus.

3. The respondents filed written statement denying the allegations in the claim petition.

4. The Tribunal, on consideration of the evidence available on record, awarded compensation of Rs.1,55,000/- with interest at 9% per annum,

making the respondents 1 and 2 jointly and severally liable to pay the compensation. Being aggrieved by the quantum of compensation and seeking enhancement, the appellants-claimants filed this appeal.

5. Heard Sri Kiran Reddy, counsel for the appellants. None appeared for the respondents-APSRTC inspite of service of notice.

6. Learned counsel for the appellants contended that the Tribunal has taken the income of the deceased as Rs.15,000/- per annum. Placing reliance on the decision rendered by the apex Court in **Kishan Gopal and another v. Lala and others**¹, he submits that the deceased in **Kishan Gopal (1 supra)** was a minor boy aged 10 years and the apex Court has taken the notional income of the deceased as Rs.30,000/- per year and applied multiplier '15' and also awarded Rs.50,000/- towards conventional charges. He further submitted that the multiplier applicable to the age of the deceased who was 11 years old at the time of accident is '15' in view of the decision of the apex Court in **Reshma Kumari v. Madan Mohan**². He therefore submits that the said decisions are applicable to the facts of this case and therefore prays to award compensation accordingly.

7. The points for consideration in this case are whether the Tribunal has taken the income of the deceased correctly and adopted suitable multiplier, and whether the appellants are entitled for enhancement of compensation?

8. In view of the decision of the apex Court in **Kishan Gopal (1 supra)**, the income of the deceased can be taken as Rs.30,000/- per year. Accordingly, the income of the deceased is taken as Rs.30,000/- per year,

¹ (2014) 1 SCC 244

² (2013) 9 SCC 65

and, in view of the decision rendered by the apex Court in **Reshma Kumari (2 supra)**, the applicable multiplier for 11 year boy is 15.

9. Taking his income at Rs.30,000/- per year, since the deceased was a minor at the time of accident, keeping in view that he was a bachelor, deducting 50% of his income towards his personal expenditure, the contribution of the deceased to his family, but for his death, would come to Rs.15,000/- per year. Applying multiplier '15', it would come to Rs.2,25,000/-. Therefore, the appellants are entitled to loss of dependency of Rs.2,25,000/-. In view of the decision rendered by the apex Court in **Ramilaben Chinubhai Parmar and Ors. V. National Insurance Co. and Ors.**³, the appellants are entitled to Rs.50,000/- towards conventional charges.

10. Accordingly, the appeal is partly allowed, by enhancing the compensation awarded by the Tribunal from Rs.1,55,000/- to Rs.2,75,000/- with proportionate costs and interest at 7.5% per annum from the date of petition till realization. The respondents are directed to deposit the compensation within two months from the date of receipt of a copy of this order. On such deposit, the appellants are permitted to withdraw the entire amount. No costs. Miscellaneous petitions, if any pending, shall stand closed.

G. SHYAM PRASAD, J

16th February, 2017

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³ MANU/SC/0356/2014

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