

HON'BLE SRI JUSTICE G.SHYAM PRASAD

MACMA No.944 OF 2010

JUDGMENT:

This appeal is arising out of the order dated 30.03.2010 in O.P.No.314 of 2007 on the file of Chairman, Motor Accidents Claims Tribunal-cum-Principal District Judge, Rang Reddy District (for short "Tribunal").

2. The appellants herein are the father and mother of the deceased, who died in a motor vehicle accident on 26.12.2006. They filed O.P.No.314 of 2007 under Sections 141 (1) and 166 of the Motor Vehicles Act, 1988 claiming compensation of Rs.6,00,000/- on account of the death of their minor son aged about 8 years.

3. The brief facts of the case are that on 26.12.2006 at about 1.30 pm., while the deceased was playing in front of their house, one Mohd.Riyaz, the driver of vehicle bearing No.AP10B 9065 belonging to the first respondent, reversed the vehicle in a rash and negligent manner and hit their son, who was playing behind the vehicle, as a result of which, he suffered serious injuries and died.

4. Respondent No.1, owner of the vehicle, has remained *ex parte* before the Tribunal. Respondent No.2 – The National Insurance Company Limited filed counter denying their liability.

5. The Tribunal, on consideration oral and documentary evidence of the witnesses, has awarded a compensation of Rs.84,000/- as against the claim of Rs.6,00,000/-. Being aggrieved by the impugned award, this appeal has been preferred.

7. Heard arguments of learned counsel for the appellants Sri U.P. Rao. None appeared on behalf of the respondents, though notices have been served to them. Hence, the arguments on behalf of the respondents deemed to have heard.

8. The point for consideration in this matter is whether the appellants are entitled for enhancement of compensation?

9. Learned counsel for the appellants, by placing reliance of para 39 of the decision of the Apex Court in *Kishan Gopal v. Lala*¹, submitted that the Tribunal awarded inadequate compensation and sought for enhancement of the same. Para 39 of the said decision reads as under:

“39. In view of the aforesaid reasons, it would be just and reasonable for us to take his notional income at Rs.30,000/- and further taking the young age of the parents, namely the mother who was about 36 years old, at the time of accident, by applying the legal principles laid down in the case of *Sarla Verma v. Delhi Transport Corporation* {(2009) 6 SCC 121}, the multiplier of 15 can be applied to the multiplicand. Thus, $30,000 \times 15 = 4,50,000$ and 50,000/- under conventional heads towards loss of love and affection, funeral expenses, last rites as held in *Kerala SRTC v. Susamma Thomas* {(1994) 2 SCC 176, which is referred to in *Lata Wadhwa case* {(2001) 8 SCC 197} and the said amount under the conventional heads is awarded even in relation to the death of children between 10 to 15 years old. In this case also we award Rs.50,000/- under conventional heads. In our view, for the aforesaid reasons the said amount would

¹ (2014) 1 SCC 244

be fair, just and reasonable compensation to be awarded in favour of the appellants.”

10. Admittedly, this is a case of death of a minor boy aged about 8 years in a motor vehicle accident occurred on 26.12.2006. The boy suffered serious injuries in the accident and died. The Tribunal held that the driver of the vehicle bearing No.AP-10B-9065 was responsible for the accident and the accident occurred due to the rash and negligent driving of the driver of the vehicle.

11. In this appeal, the dispute is only with regard to quantum of compensation. The 1st respondent-driver and the 2nd respondent-insurer held liable for payment of compensation. The Tribunal has awarded Rs.84,000/- as against the claim of the appellants at Rs.6 lakhs.

12. The learned counsel for the appellants mainly submitted that the compensation awarded by the Tribunal is not adequate and it requires to be enhanced. The Tribunal awarded Rs.2,000/- towards funeral expenses, Rs.2,000/- towards transportation and Rs.20,000/- towards loss of earnings and Rs.50,000/- under no fault liability. In all, an amount of Rs.84,000/- was awarded.

13. Learned counsel for the appellants mainly submitted that the Tribunal has not worked out the compensation as per ratio laid down in KISHAN GOPAL case wherein the notional income of Rs.30,000/- per annum was taken in case of death of a minor boy and the multiplier 15 was taken and applied multiplicand of Rs.30,000/- per annum which comes to Rs.4,50,000/-. Under

conventional heads towards loss of love and affection and funeral expenses, an amount of Rs.50,000/- was awarded.

14. In the instant case, a child of 8 years old died in the accident. The notional income of Rs.30,000/- and multiplicand 15 are taken, the amount comes to Rs.30,000/- x 15 = Rs.4,50,000/-. The appellant is entitled for conventional amount of Rs.50,000/- towards loss of love and affection and funeral expenses, in all, the appellants are entitled for an amount of Rs.5 lakhs, in the light of the decision of Apex Court referred supra in KISHAN GOPAL case.

15. In the result, the appeal is partly allowed and the compensation awarded by the Tribunal at Rs.84,000/- is enhanced to Rs.5 lakhs (Rupees five lakhs only) with interest at 7.5% per annum from the date of the petition till realization, with proportionate costs. The respondents are directed to deposit the said compensation amount within two months from the date of the receipt of the copy of this order. On such deposit, the appellants are permitted to withdraw the said compensation amount in equal halves.

As a sequel, miscellaneous petitions, if any, pending in the appeal shall stand closed.

G.SHYAM PRASAD, J

Date: 10.02.2017
ccm

HON'BLE SRI JUSTICE G.SHYAM PRASAD



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