

THE HON' BLE SRI JUSTICE T. AMARNATH GOUD

M.A.C.M.A. Nos.1787 OF 2012 & 503 OF 2015

COMMON JUDGMENT:

Since both the appeals arise out of a common order passed in O.P.No.143 of 2009, dated 14-12-2010, on the file of the IV Additional Metropolitan Sessions Judge-cum-XVIII Additional Chief Judge, Hyderabad (for short, the Tribunal), they are being disposed of by this common judgment.

M.A.C.M.A.No.1787 OF 2012:

2. This appeal is filed by the appellant/ claimant on the ground that the Tribunal awarded an amount of Rs.16,06,300/- against the claim of Rs.20,00,000/- for the injuries sustained by him in the accident occurred on 12.12.2008 and that the Tribunal awarded interest 7.5 %p.a., instead of 12 %p.a.

M.A.C.M.A.No.503 OF 2015:

3. This appeal is filed by the appellant/ respondent No.2 i.e., the New India Assurance Company Limited, on the ground that the claimant himself is negligent in driving the motor cycle and there is contributory negligence on the part of the claimant and the compensation awarded by the Tribunal is on higher side.

4. For the purpose of convenience, the parties are hereinafter referred to as 'the claimant' and 'the Insurance Company'.

5. The brief facts of the case are that on 12.12.2008 at about 3.00 pm., near Dharga, D.Pochampaly, Outbullapur, Ranga Reddy District, while the claimant, as rider along with his friend Sheshidhar Reddy as

pillion rider, was proceeding on his motor cycle bearing No.AP-20-L-5719, lorry bearing No.7731 driven by its driver with high speed and in rash and negligent manner came in wrong side by overtaking another vehicle and dashed against the motor cycle of the claimant, as a result of which, the claimant and his friend fell down and sustained fractures and multiple injuries. The claimant took treatment in NIMS and Yashoda Hospital. He was aged 21 years and was studying B.Tech at the time of accident. Therefore, he filed O.P.No.143 of 2009 claiming compensation of Rs.20,00,000/- along with interest @12%per annum.

6. Sri Kasireddy Jagathpal Reddy, learned counsel for the claimant, submitted that considering the nature of injuries and the future prospects of the claimant, the Court below ought to have awarded compensation of Rs.20,00,000/- instead of Rs.16,06,300/-.

7. Sri Ravi Shanker Jandhyala, learned standing counsel appearing for Insurance Company, submitted that there is contributory negligence on the part of the claimant and hence the Insurance Company is not liable to pay compensation and sought to set aside the Award of the Tribunal.

8. In the facts and circumstances of the case, this Court is of the view that award passed by the Tribunal in all aspects holds good and no interference is called for by this Court except with regard to taking the income of the claimant at Rs.9,600/-. In *B.RAMULAMMA v. M/s.VENKATESH BUS UNION, REP.BY A.M.VELU MUDALIYAR*,

*BANGALORE*¹ this Court has fixed Rs.12,000/- per month as salary. Therefore, since the claimant has received injuries and has suffered amputation above the knee, the income of the claimant is fixed at Rs.12,000/- per month. Apart from the same, the claimant is entitled to addition of 40% towards future prospects as per the decision of the Apex Court in *Smt.Sarla Varma v Delhi Transport Corporation*². Therefore, this Court is inclined to take the income of the claimant at Rs.16,800/- per month (Rs.12,000/- + Rs.4,800/-), which comes to Rs.2,01,600/- per annum. The multiplier for the age of the deceased is '18'. Hence, the compensation under the head permanent partial disability comes to Rs.21,77,280/- (2,01,600 X 18 X 60%). Except the said enhancement, rest of the award remains un-changed.

9. In the result, M.A.C.M.A.No.1787 of 2012 is allowed and M.A.C.M.A.No.503 of 2015 is dismissed. The Insurance Company is directed to deposit the enhanced amount within two months from the date of receipt of a copy of this order. On such deposit, the claimant is permitted to withdraw the entire amount, on payment of deficit Court fee, as he claimed only Rs.20,00,000/-. Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 06.12.2018
Rns

¹ 2009(6) ALT784 (D.B.)

² 2009(6) SCC 121