

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.NO.252 OF 2015

JUDGMENT:

This appeal is preferred by the claimants aggrieved by the order, dated 02.12.2014 in O.P.No.272 of 2013 passed by the Chairman, Motor Accident Claims Tribunal-cum-District Judge, Nizamabad, (for brevity 'the Tribunal').

2. Brief facts are that on 22.09.2012 Smt.Gupta Swaroopa (hereinafter referred to as 'the deceased') along with her daughter Chamundeswari and Pratap and Konduka Narsu Bai started in Maruthi Omi Van bearing No. AP. 25 TV.0510 from Bhemgal to Hyderabad airport to receive her husband-Gupta Mallesh. When they were returning to their village Bheemgal at about 5.30 AM and when they reached at Kalakal village of Toorpan mandal, the driver of the said Van drove the vehicle in a rash and negligent manner and dashed to an unknown vehicle. As a result of which, the occupants of the van i.e., Pratap, Konduka Narsu Bai and driver of the van namely, Ahmed died on the spot. The deceased received multiple and grievous injuries and succumbed to injuries on 23.09.2012. Gupta Mallesh and his daughter Chamundeswari also received multiple injuries. Thus, the claimants filed the claim petition claiming compensation of Rs.8,00,000/-.

3. To substantiate the claim, on behalf of the claimants, P.W.1 was examined and Exs.A1 to A6 were marked. On behalf of the Insurance Company, no evidence was adduced except marking Ex.B1, which is copy of Insurance Policy.

4. The Tribunal on consideration of entire oral and documentary evidence available on record, awarded compensation of Rs.6,87,000/- against claim of Rs.8,00,000/- with interest at 7.5% p.a. from the date of petition till date of realization. Challenging the same, the claimants preferred this appeal seeking enhancement of compensation.

5. As seen from the record, it is evident that the Tribunal considered Rs.4,000/- per month as the monthly income of the deceased. In the light of the decision of the apex Court reported in **ARUN KUMAR AGRAWAL AND ANOTHER V NATIONAL INSURANCE COMPANY LTD., AND OTHERS** ¹, notional income of the deceased is considered at Rs.5,000/- per month. Since there are two different claimants, one third has to be deducted towards personal expenses, which comes to Rs.3,334/- and per annum, it comes to Rs.40,008/-. As per decision reported in **NATIONAL INSURANCE COMPANY LTD., V PRANAY SETHI AND OTHERS** ², 40% future prospects have to be awarded. Accordingly, this Court awards 40% towards future prospects i.e., Rs.16,003/- (Rs.40,008/- X 40%) and in total, it comes to Rs.56,011/- (Rs.40,008/- + Rs.16,003/-). Since the age of the deceased is 35 years, the appropriate multiplier applicable is '16'. If the amount of Rs.56,011/- is multiplied by 16, it comes to Rs.8,96,176/-. The Tribunal has awarded Rs.1,00,000/- towards loss of consortium and Rs.25,000/- towards funeral expenses. i.e., total of Rs.1,25,000/-. The same is reduced to Rs.70,000/- by following the *Pranay Sethi* case (cited supra). The claimant No. 2, who is a minor entitled for Rs.50,000/- as per decision reported in

¹ (2010) 9 SCC 218

² AIR 2017 SC 5157

**MAGMA GENERAL INSURANCE CO. LTD., V MANU RAM ALIAS
CHUHRU RAM ³,**

6. In all, the claimants are entitled to compensation, which is shown as under:

1.Loss of dependency	Rs.8,96,176/-
2.Conventional charges	Rs. 70,000/-
3. Minor child	Rs. 50,000/-

Total	Rs.10,16,176/-

7. Accordingly, the appeal is allowed with costs enhancing compensation from Rs.6,87,000/- to Rs.10,16,176/-with interest at 7.5% p.a., from the date of petition till the date of realization. The appellants-claimants are directed to pay deficit Court fee on the enhanced compensation amount before the Tribunal. Miscellaneous petitions, if any pending in this appeal shall stand closed.

T.AMARNATH GOUD, J

DATED: 17-09-2019

Hsd

³ LAWSUIT (SC) 94