

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

MACMA NO. 1901 OF 2006

JUDGMENT:

This appeal is directed by the claimants against the order and decree dated 08.02.2006 passed in O.P.No.2284 of 2004 by the Motor Accidents Claims Tribunal-cum-II Additional Chief Judge, City Civil Court, Hyderabad (for short 'the Tribunal), whereby the tribunal granted compensation of Rs.6,98,000/- on account of the accident occurred on 31.03.2004 at about 11.00 AM one B.Ravval Reddy and his cousin V. Eswar Reddy as pillion ridder were proceeding on a motorcycle No.AP 9AL 8741 towards Uppal on contract work and when they reached Little Flower Junior College, Uppal, a DCM Van/Eicher bearing No. AP 36U 4898 came at high speed in a rash and negligent manner, dashed against the motorcycle behind it, for which the deceased V.Eswar Reddy received head broken into two pieces and other fractures all over the body and died on the spot and that the rider of the motorcycle also received injuries, as against the claim of Rs.30,00,000/-.

2. For the sake of convenience, the parties herein are referred to as arrayed in the tribunal.
3. Before the tribunal, respondents filed counters denying the claim petition.
4. In order to prove the case of the claimants, before the tribunal, PWs.1 to 3 were examined and marked Exs.A1 to A.9. No

oral or documentary evidence was adduced on behalf of the respondents.

5. Learned counsel for the claimants submitted that the claimants are restricting their claim for Rs.23,00,000/-, though they claimed Rs.30,00,000/- before the tribunal and that the tribunal did not appreciate the evidence available on record and did not consider the income of the deceased in proper perspective and that the tribunal did not consider the future prospects and hence, prayed to grant just and proper compensation. It is also represented that the father of the deceased passed away recently and his share of compensation may be distributed between the claimants 1, 2 and 4.

6. Learned standing counsel for the insurance company vehemently opposed the appeal and submitted that the award passed by the tribunal is well considered in all aspects and hence, prayed to dismiss the appeal.

7. It is a case of death. There is no dispute with regard to the manner of accident and involvement of the vehicle. As the date of birth of the deceased was 03.11.1973, the age of the deceased at the time of accident i.e. in the year, 2004, was '31' years. As per Exs.A.4, A5 and A.6, income tax returns, the income of the deceased was Rs.1,49,570/-, which rounded to Rs.1,50,000/-. The age of the deceased is 31 years, as per the decision of the Apex Court in **Sarala Verma and others v Delhi Transport**

Corporation and another¹, the relevant multiplier applicable is '16' and since the claimants are four in number, 1/4th of his personal expenses have to be deducted. The deceased was self employed, as per the decision of the apex Court in **National Insurance Company Limited v Pranay Sethi**², when the age of the deceased was 31 years, married, Rs.70,000/- under conventional heads can be granted which is just and proper. Since the deceased is aged about 31 years and self employed, 40% future prospects can be granted. The annual income of the deceased comes to Rs.1,57,500/- (Rs.1,50,000/- - minus 1/4th (Rs.37,500) x 40% (Rs.45,000/-)). Applying relevant multiplier '16', loss of dependency comes to Rs.25,20,000/- (Rs.1,57,500/- x 16). As per the decision of the apex Court in **Magma General Insurance Co.Ltd. v Nanu Ram Alias Chuhru Ram**³, the minor girl of the deceased is entitled for Rs.,50,000/- and the mother of the deceased is entitled for Rs.40,000/- as filial. Since the father of the deceased died, his share can be divided between claimants 1, 2 and 3. Thus, the claimants are entitled for total compensation of Rs.26,80,000/- (Rs.25,20,000/- + Rs.70,000/- + Rs.50,000/- + Rs.40,000/-). The compensation shall carry interest @ 7.5% per annum from the date of petition till the date of realization. The claimants are entitled to withdraw the compensation amount soon after the deposit is made. Though the claim is made for Rs.30,00,000/- before the tribunal, the claimants restricted their claim in the appeal as Rs.23,00,000/-, in order to grant just and

¹ 2009 ACJ 1298

² 2017(6) 170 (SC)

³ 2018 Law Suit (SC) 904

proper compensation for the reasons indicated above and in the light of the decision of the Apex Court in **Nagappa v Gurudayal Singh**⁴ the compensation awarded can be more than the claim, the present appeal needs to be allowed. The claimants have to pay deficit court fee on over and above the claim amount and if the deficit court fee not paid as per Rule 475 of the M.V. Rules before the Tribunal, the claimants cannot be permitted to execute for the enhanced amount.

8. In view of the above, the appeal is allowed. There shall be no order as to costs.

Miscellaneous petitions if any, shall stand closed.

Date: 04.12.2019
kvrn

T.AMARNATH GOUD,J

⁴ 2003(2) SCC 274