

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.1823 OF 2008

JUDGMENT:

This appeal is preferred by the appellant-insurance company against the order, dated 16.02.2006 passed in M.V.O.P.No.727 of 2004 by the Motor Accident Claims Tribunal-VI Additional District Judge, (III FTC), Warangal at Mahabubabad (for short 'the Tribunal) granting compensation of Rs.2,30,400/-.

2. For the sake of convenience, the parties herein after will be referred to as they were arrayed before the Tribunal.

3. Learned counsel for the appellant contended that originally, the claim petition was made for Rs.50,000/- and subsequently, the same has been enhanced to Rs.1,00,000/- vide order dated 03.08.2005 in I.A.No.415 of 2005, which is excessive and not claimed by the claimant. Learned counsel also contended that in similar issue CBI enquiry has been ordered against the counsel and the doctor and the same is pending and therefore, prayed to allow the appeal by setting the order of the Tribunal.

4. In so far as the enhancement of compensation granted by the Tribunal more than the claim, this Court is of the considered view that in view of the decision of the apex Court in **Nagappa v Gurudayal Singh and others**¹ there cannot be any embargo upon restriction restricting the compensation amount on par with the claim. In view of the M.V. Act is a beneficial legislation as held by

¹ (2003)2 SCC 274

the Apex Court in several judgments, on the facts and circumstances of the case, compensation can be granted more than the claim amount. In so far as the enquiry pending by CBI is concerned, the said issue has been settled by this Court in MACMA No.2052 of 2006 on 22.02.2010 holding that the criminal proceedings initiated against the doctor or counsel is of criminal nature and has no relevancy in deciding this appeal. It is needless to observe that in view of the civil and criminal proceedings are separate in nature, the enquiry against the doctor or counsel cannot have any bearing in awarding compensation.

5. In view of the above, the appeal filed by the appellant – insurance company is dismissed confirming the order, dated 16.02.2006 passed in M.V.O.P.No.727 of 2004 by the Motor Accident Claims Tribunal-VI Additional District Judge, (III FTC), Warangal at Mahabubabad. No order as to costs.

Miscellaneous petitions, if any pending in this appeal shall stand closed.

T.AMARNATH GOUD,J

DATE 02.08.2019
kvrn

