

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

MACMA NO. 1238 OF 2006

JUDGMENT:

This appeal is directed by the claimants against the award and decree dated 04.02.2006 passed in O.P.No.688 of 2002 by the Motor Accidents Claims Tribunal-cum-II Additional District Judge, Mahabubnagar (for short 'the Tribunal), whereby the tribunal granted compensation of Rs.1,50,000/- in a motor vehicle accident that occurred on 01.07.2002 at about 07.30 a.m, while the deceased Laxmanan was traveling in the tractor and trailer bearing Nos. AP22T 5967 and AP 22T 5968 along with other labourers to Hosur main road, driver of the tractor drove it in a rash and negligent manner, for which the deceased was thrown out of the vehicle and sustained grievous injuries and died, as against the claim of Rs.2,50,000/-.

2. For the sake of convenience, the parties herein are referred to as arrayed in the tribunal.

3. Before the tribunal, the respondents filed their counters denying the claim petition.

4. In order to prove the case of the claimants, before the tribunal, PWs.1 and 2 were examined and marked Exs.A1 to A.5 on behalf of the claimants. RW.1 was examined and Exs.B.1 and B.2 were marked on behalf of the respondents.

5. Basing on the material available on record, the tribunal granted compensation of Rs.1,50,000/- with interest at 7.5% per annum from the date of petition till the date of realization against the respondents jointly and severally.

6. Learned counsel for the claimants submitted that the compensation granted by the tribunal is very meager and that the tribunal failed to consider the earning capacity of the deceased and hence, prayed to grant just and proper compensation.

7. Learned standing counsel for the insurance company submitted that the award passed by the tribunal is well considered in all aspects and needs no interference of this Court and prayed to dismiss the appeal.

8. The claimants are father and mother of the deceased. There is no dispute with regard to the manner of accident and involvement of the vehicle. On perusal of the material available on record, the deceased was aged about 19 years and working as labourer. In the absence of proof of income, the monthly income of the deceased can be taken as Rs.3,000/- per month. As per the decision of the Apex Court in **Sarala Verma and others v Delhi Transport Corporation and another**¹, since the deceased is unmarried 50% of his personal expenses have to be deducted. As per the decision of **Sarala Verma's** case referred supra, when the age of the deceased is 19 years, the relevant multiplier applicable is '18. The deceased was self employed, as per the decision of the

¹ 2009 ACJ 1298

apex Court in **National Insurance Company Limited v Pranay Sethi**² the claimants are entitled for 40% future prospects and when the age of the deceased is 19 years, unmarried and Rs.30,000/- under conventional heads can be granted which is just and proper. As per the decision of the Apex Court in **Magma General Insurance Co.Ltd. v Nanu Ram Alias Chuhru Ram**³, the father and mother of the deceased are entitled for Rs.40,000/- each as filial. The annual income of the deceased comes to Rs.25,200/- (Rs.3,000/- - minus 50% (Rs.1,500/-) plus 40% (Rs.600/-) x 12). Applying relevant multiplier '18, loss of dependency comes to Rs.4,53,600/- (Rs.25,200/- x 18). Thus, the claimants are entitled for total compensation of Rs.5,63,600/- (Rs.4,53,600/- + Rs.30,000/- + Rs.80,000/-), which rounded to Rs.5,64,000/- The enhanced 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.2,50,000/- in order to grant just and 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

² 2017(6) 170 (SC)

³ 2018 Law Suit (SC) 904

⁴ 2003(2) SCC 274

Tribunal, the claimants cannot be permitted to execute for the enhanced amount.

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

Miscellaneous petitions if any, shall stand closed.

T.AMARNATH GOUD,J

Date: 25-10-2019
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