

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

MACMA NO. 243 OF 2006

JUDGMENT:

This appeal is directed by the claimants, who are father and mother of the minor deceased against the order and decree dated 03.11.2005 passed in O.P.No.625 of 2003 by the Motor Accidents Claims Tribunal-cum-District Judge, Karimnagar (for short 'the Tribunal), whereby the Tribunal granted compensation of Rs.73,500/- with proportionate costs and interest @ 9% per annum from the date of petition till the date of realization on account of the death of a boy caused in a motor vehicle accident occurred on 08.02.2001 at about 04.30 p.m., when the petitioner and his son after completing the labour work was proceeding to Kukunoorpally Villate to go to their hut, the offending military van bearing No. 82C21211 K driven by the 1st respondent came in a rash and negligent manner and hit the deceased boy causing him grievous injuries, immediately, the deceased boy was shifted to Gandhi Hospital, Secunderabad, but he succumbed to injuries while undergoing treatment on the same day, as against the claim of Rs.1,50,000/-.

2. For the sake of convenience, the parties herein are referred to as arrayed in the tribunal.
3. Respondents filed their counter denying the claim of the claimants.

4. In order to prove the case of the petitioners, PWs.1 and 2 were examined and marked Exs.A.1 to A.3 on their behalf and on behalf of the respondents RW.1 was examined and no documents were marked. Basing on the pleadings, the tribunal framed the following issues:

- 1) Whether the accident has took place due to rash and negligent driving of vehicle i.e. military van bearing No. 82 C 21211 K by its driver?
- 2) Whether the petitioners are entitled to compensation and if so, to what amount and from whom?
- 3) To what relief?

4. On considering the oral and documentary evidence, the tribunal partly allowed the claim petition granting compensation of Rs.23,500/- after adjusting Rs.50,000/- paid towards no fault liability and that the respondents are jointly and severally liable to pay the compensation amount.

5. Learned counsel for the claimants submitted that the tribunal erred in awarding meager amount of compensation on presumptions and surmises without considering the multiplier method and its provisions, causing injustice to the claimants and hence, prayed to grant the just compensation.

6. Learned Assistant Solicitor General appearing for the respondents contended that the order passed by the tribunal is well considered in all aspects and hence, prayed to dismiss the appeal.

7. There is no dispute with regard to the manner of accident and involvement of the vehicle. In view of facts and circumstances of the case, this Court feels that the compensation granted by the tribunal is very meager and the same needs re-consideration. Since the age of the claimant is '7' years, the relevant multiplier applicable is '15' as per the decision of the Apex Court in **Sarala Verma and others v Delhi Transport Corporation and another**¹. As per the decision of the apex Court in **Kishan Gopal and another v Lala and others**², notional income of the deceased can be taken as Rs.30,000/- per annum. Therefore, the loss of dependency comes to Rs.4,50,000/- (Rs.30,000/- x 15) besides Rs.15,000/- towards loss of estate, Rs.500/- towards funeral expenses and Rs.1000/- towards transportation. Thus, in all the claimants are entitled for compensation of Rs.4,66,500/- (Rs.4,50,000/- + Rs.15,000/- + Rs.500/- + Rs.1000/-). The compensation amount shall carry interest @ 7.5% per annum. The amount already paid under the head of no fault liability should be adjusted from the total compensation amount. Though the claim is made for Rs.1,50,000/- 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**³ the compensation awarded can be more than the claim, the present appeal needs to be allowed. The injured claimant has 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

¹ 2009 ACJ 1298

² 2013 ACJ 2594

³ 2003(2) SCC 274

the Tribunal, the injured cannot be permitted to execute for the enhanced amount. The respondents are directed to deposit the compensation amount within three months from the date of judgment. In all other aspects, the order passed by the tribunal holds good.

7. In the result, MACMA is allowed as indicated above. There shall be no order as to costs.

Miscellaneous petitions, if any, shall stand closed.

Date: 26.09.2019
kvrn

T.AMARNATH GOUD,J

