THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

MACMA NO. 1114 OF 2006

JUDGMENT:

This appeal is directed by the claimants against the judgment and decree dated 15.10.2004 passed in O.P.No.1496 of 2000 by the Principal Motor Accidents Claims Tribunal at Nalgonda (for short 'the Tribunal), whereby the tribunal granted compensation of Rs.8,86,800/- in a motor vehicle accident that occurred on 18.07.2000 at about 05.00 p.m, while the deceased Mudavath Halya Naik, his wife and son traveling on Hero Honda motor cycle bearing No.AP 24 C 5782 near Maddgula X Roads, from the opposite direction lorry bearing No.KA 28 6776 driven by its driver in a rash and negligent manner at high speed, dashed against their motor cycle, for which the deceased died on the spot and his wife and son received injuries, as against the claim of Rs.15,00,000/-.

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

3. Before the tribunal, the 1st respondent remained exparte and the 2nd respondent filed counter 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.15 and Ex.B.1 – copy of insurance policy was marked, but no oral evidence is adduced on behalf of the respondents.

5. Basing on the material available on record, the tribunal granted compensation of Rs.8,86,800/- with interest at 9% per annum from the date of petition till the date of realization and directed the respondents to deposit the compensation amount within one month from the date of order.

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 1st claimant is the wife, claimants 2 to 4 are sons and daughter and claimants 5 and 6 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 30 years as per Exs.A14-SSC certificate and Ex.A.15-driving licence, working as draftsman, Grade II in SLBC, Nalgonda and as per Ex.A.8-salary certificate, the deceased earing Rs.6,298/-, rounded to Rs.6,300/- per month. As per the decision of the Apex Court in **Sarala Verma and others v Delhi Transport Corporation and another[1],** since the claimants are six in number, 1/4th of his

[1] 2009 ACJ 1298

personal expenses have to be deducted. As per the decision of **Sarala Verma's** case referred supra, when the age of the deceased is 30 years, the relevant multiplier applicable is '17. The deceased was permanent employed, as per the decision of the apex Court in **National Insurance Company Limited v Pranay Sethi**[2] the claimants are entitled for 50% future prospects and when the age of the deceased is 30 years, married and Rs.70,000/- 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 and his minor two sons and daughter are entitled for Rs.50,000/- each as filial. The annual income of the deceased comes to Rs.85,044/- (Rs.6,300/- - minus 1/4th (Rs.1,575/-) plus 50% (Rs.2,362/-) x 12). Applying relevant multiplier '17, loss of dependency comes to Rs.14,45,748/- (Rs.85,044/- x 17). Thus, the claimants are entitled for total compensation of Rs.17,45,748/- (Rs.14,45,748/- + Rs.1,50,000/- + Rs.70,000/- + Rs.80,000/-), which rounded to Rs.17,45,000/-. The enhanced compensation shall carry interest @ 7.5% per annum from the date of petition till the date of realization. Respondent No.2 is directed to deposit the compensation amount within three months from the date of this judgment. The claimants are entitled to withdraw the compensation amount soon after the deposit is made. Though the claim is made for Rs.15,00,000/- in order to grant just and proper

---

[2] 2017(6) 170 (SC)
[3] 2018 Law Suit (SC) 904

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.

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: 23-10-2019
kvrm

[4] 2003(2) SCC 274