

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

MACMA NO. 3474 OF 2005

JUDGMENT:

This appeal is directed by the claimants against the award and decree dated 18.04.2003 passed in O.P.No.1527 of 2001 by the Chief Judge, City Civil Court, Hyderabad (for short 'the Tribunal'), whereby the tribunal granted compensation of Rs.2,22,000/- in a motor vehicle accident that occurred on 22.08.2000 at about 03.00 p.m while the deceased Laxmaiah and the another were proceeding on Chetak Scooter bearing No. AP 28 M 3095 from Pasumamula Village towards Edulabad, a tipper lorry bearing No.AP 37 T 1404 came in a rash and negligent manner at high speed and dashed against the said scooter at the outskirts of Bandaravirala, for which the deceased and another sustained grievous injuries and that the deceased died in the hospital on 27.08.2000 while undergoing treatment, against the claim of Rs.4,00,000/-.

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 – insurance company 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.12

and Exs.B.1 – c.c. of insurance policy was marked and no oral evidence is adduced on behalf of the respondents.

5. Basing on the material available on record, the tribunal granted compensation of Rs.2,22,000/- with interest at 9% per annum from the date of petition till the date of realization and that the accident occurred due to rash and negligent driving of the driver of the said lorry.

6. Learned counsel for the claimants submitted that the compensation granted by the tribunal is very meager and that the tribunal erred in assessing the compensation and hence, prayed to grant just and proper compensation.

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

8. There is no dispute with regard to the manner of accident and involvement of the vehicle. The deceased was working as maistry. Claimant No.1 is wife, claimant Nos.2, 3 and 4 are daughter and sons and claimant No.5 is the mother of the deceased. As per the decision of the Apex Court in **Ramachandrappa v Royal Sundaram Alliance Insurance Co. Ltd.**¹, notional income of Rs.4,500/- can be taken as monthly income and accordingly, the same is considered. The age of the deceased is 32 years. As per the decision of the Apex Court in

¹ (2011) 13 SCC 236

Sarala Verma and others v Delhi Transport Corporation and another², since the claimants are five in number, 1/4th 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 32 years, the relevant multiplier applicable is '16'. The deceased was self employed, as per the decision of the apex Court in **National Insurance Company Limited v Pranay Sethi³** the claimants are entitled for 40% future prospects and when the age of the deceased is 32 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 Ram⁴**, the mother of the deceased is entitled for Rs.40,000/- and his minor daughter and minor sons are entitled for Rs.50,000/- each as filial. The annual income of the deceased comes to Rs.56,700/- (Rs.4,500/- - minus 1/4th (Rs.1,125/-) plus 40% (Rs.1,350/-) x 12). Applying relevant multiplier '16, loss of dependency comes to Rs.9,07,200/- (Rs.56,700/- x 16). Thus, the claimants are entitled for total compensation of Rs.11,67,200 /- (Rs.9,07,200/- + Rs.40,000/- + Rs.70,000/- + Rs.1,50,000/-), which rounded to Rs.11,67,000/-. The enhanced compensation shall carry interest @ 7.5% per annum from the date of petition till the date of realization. Respondents 1 and 2 are directed to deposit the compensation amount within two months from the date of this judgment. The claimants are entitled to withdraw the compensation amount soon

² 2009 ACJ 1298

³ 2017(6) 170 (SC)

⁴ 2018 Law Suit (SC) 904

after the deposit is made. Though the claim is made for Rs.4,00,000/- 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**⁵ 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.

Date: 29-10-2019
kvrn

T.AMARNATH GOUD,J

⁵ 2003(2) SCC 274