

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

MACMA NO. 870 OF 2006

JUDGMENT:

This appeal is directed by the claimants against the common order dated 07.12.2005 passed by the Motor Accidents Claims Tribunal-cum-II-Additional District Judge, R.R.District, at N.T.R.Nagar (for short 'the Tribunal), in O.P.Nos.787 and 1020 of 2001, whereby the tribunal granted compensation of Rs.3,80,000/- in motor vehicle accident that occurred on 10.02.2001 when the deceased Ashok coming to his house on his scooter bearing No. AP 11 C 3402 from DRDL factory, near Mailardevpally toddy compound at about 1030 hours a lorry bearing No. KA 25A 3174 came with high speed in rash and negligent manner driven by its driver and dashed against the scooter of the deceased, which the deceased fell down and sustained serious injuries all over the body and immediately, shifted to Kamineni Hospital, L.B.Nagar after giving first aid in Raghavendra Hospital and that succumbed to the injuries on 19.02.2001 while undergoing treatment and that prior to the accident the deceased was hale and healthy, as against the claim of Rs.8,00,000/-.

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

3. O.P.No.787 of 2001 is filed by the wife, son and daughter of the deceased and O.P.No.1020 of 2001 is filed by the wife, son, daughter, father and mother of the deceased. In both OPs the

deceased is one and the same. Both OPs arise out of the same accident.

4. Respondents 1, 3 and 4 remained set exparte before the tribunal. Respondent No.2 – Insurance Company filed counter denying claim petition.

5. In order to prove the case of the claimants, PWs.1 to 3 were examined and marked Exs.A1 to A.6 on their behalf and Ex.B.1 copy of policy. No oral evidence is adduced on behalf of the respondents in support of their contentions. Basing on the pleadings, oral and documentary evidence, the tribunal framed the following issues:

- 1) Whether the accident took place on 10.02.2001 at 2030 hours on the ring road at Toddy Compound, Mailaredevpally, on account of the rash and negligent of the driver of the lorry bearing No. KA 25A 3174 and dashed the scooter bearing No.AP 11C 3402?
- 2) Whether the petitioners are entitled to claim any compensation, if so, for how much?
- 3) To what relief?

6. There is no dispute with regard to the manner of accident and involvement of the vehicle. Admittedly, the deceased is working in DRDL and his monthly income is Rs.4,315/- as per Ex.A.6 – attested copy of salary certificate and the age of the deceased is 32 years as considered by the tribunal. Since there are five claimants, 1/4th has to be deducted towards personal expenses of the deceased. The deceased is below 40 years and holding permanent job, as per the decision of the apex Court in

National Insurance Company Limited v Pranay Sethi¹ the claimants are entitled for 50% of future prospects and Rs.70,000/- can be granted towards conventional heads. As per the decision of the Apex Court in **Sarala Verma and others v Delhi Transport Corporation and another**², the relevant multiplier for the age group 31 – 35 is '16'. As per the decision of the Apex Court in **Magma General Insurance Co.Ltd. v Nanu Ram Alias Chuhru Ram**³, the two children of the deceased are entitled for Rs.50,000/- each and the parents of the deceased are entitled for Rs.40,000/- each as filial.

7. The annual income of the deceased is Rs.58,260/- (Rs.4,855/- minus 1/4th personal expenses + 50% future prospects x 12). Applying relevant multiplier '16', loss of dependency comes to Rs.9,32,160/- (Rs.58,260/- x 16). The claimants are entitled for total compensation of Rs.11,82,160/- (Rs.9,32,160/- + Rs.70,000/- Rs.1,00,000/- + Rs.80,000/-), which rounded to Rs.11,82,000/-. The compensation amount shall carry interest 7.5% per annum from the date of petition till the date of realization. Though the claim is made for Rs.8,00,000/- 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**⁴ the compensation awarded can be more than the claim, the present appeal needs to be allowed. Respondents 1 and 2 are directed to deposit the compensation amount jointly and

¹ 2017(6) 170 (SC)

² 2009 ACJ 1298

³ 2018 Law Suit (SC) 904

⁴ 2003(2) SCC 274

severally within three months from the date of this judgment. The claimants are entitled to withdraw the compensation amount soon after the deposit is made. 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.

8. 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: 18.09.2019
kvrn

T.AMARNATH GOUD,J

