

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

MACMA NO. 2604 OF 2006

JUDGMENT:

This appeal is directed by the claimants against the award and decree dated 27.10.2005 passed by the Motor Accidents Claims Tribunal-cum-XVIII Additional Chief Judge, Hyderabad (for short 'the Tribunal'), in O.P.No.1458 of 2003, whereby the Tribunal awarded compensation of Rs.1,00,000/- on account of the death of the deceased – Abdul Waheb in a motor vehicle accident that occurred on 07.03.2003, as against the claim of Rs.1,00,000/-.

2. For the sake of convenience, the parties are hereinafter referred to as arrayed in the Tribunal.

3. Learned counsel for the claimants contended that the notional income taken by the tribunal is very low, whereas, as per the decision of the Apex Court in **Kishan Gopal and another v Lala and others**¹, notional income can be granted at Rs.30,000/- per annum and hence, prayed to grant just and proper compensation.

4. Learned standing counsel for the insurance company contended that the order passed by the tribunal is well considered and needs no interference of this Court and hence, prayed to dismiss the appeal.

5. There is no dispute with regard to the manner of accident and involvement of the vehicle. The 1st claimant is the mother and

¹ 2013 ACJ 2594

the 2nd claimant is the father of the deceased. The deceased is aged about 10 years and having no income. Therefore, as per the decision of **Kishan Gopal's** case, the annual income of the deceased can be taken as Rs.30,000/-. Since the deceased unmarried, 50% of his personal expenses have to be deducted. As per the decision of the Apex Court in **Munna Lal Jain v Vipin Kumar Sharma**², though the deceased is a bachelor, multiplier applicable to the age group of the deceased alone has to be taken into consideration for computing compensation. As per the decision of the Apex Court in **SARALA VERMA AND OTHERS v DELHI TRANSPORT CORPORATION AND ANOTHER**³, the age of 10 years, the relevant multiplier applicable is '15'. The loss of dependency comes to Rs.2,25,000/- (Rs.30,000/- minus 50% x 15). The claimants are also entitled for Rs.30,000/- towards conventional head as per the decision of the apex Court in **National Insurance Company Limited v Pranay Sethi**⁴ since the deceased bachelor. As per the decision of the Apex Court in **Magma General Insurance Co.Ltd. v Nanu Ram Alias Chuhru Ram**⁵, the mother and father of the deceased are entitled for Rs.40,000/- each as filial. Thus, the claimants are entitled for Rs.3,35,000/- (2,25,000/- + Rs.30,000/-+ Rs.80,000). The tribunal rightly held that the accident occurred due to rash and negligent driving of the driver of the crime vehicle and that the insurance policy is in force at the time of accident and that the 1st

² 2015(6) SCC 347

³ 2009 ACJ 1298

⁴ 2017(6) 170 (SC)

⁵ 2018 Law Suit (SC) 904

respondent has not placed any evidence on record to substantiate that the 1st respondent violated any of the terms and conditions of the policy and hence, the 2nd respondent is directed to deposit the compensation amount within three months from the date of receipt of copy of this judgment. The claimants are entitled to withdraw the compensation amount soon after the deposit is made as per their proportionate share. The enhanced compensation shall carry interest @ 7.5% per annum from the date of petition till the date of realization. Though the claim is made for Rs.1,00,000/- 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**⁶ the compensation awarded can be more than the claim, the present appeal needs to be allowed awarding compensation of Rs.3,35,000/-. 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 claimant cannot be permitted to execute for the enhanced amount.

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

T.AMARNATH GOUD,J

Date: 09.12.2019
kvrn

⁶ 2003(2) SCC 274