

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

MACMA NO. 1719 OF 2006

JUDGMENT:

This appeal is directed by the insurance company against the order and decree dated 22.02.2006 passed by the III Motor Accidents Claims Tribunal, Warangal (for short 'the Tribunal), in M.V.O.P.No.864 of 2002, whereby the tribunal allowed the appeal in part granting compensation of Rs.11,15,782/-, on account of the accident occurred on 18.02.2002 at about 06,.30 p.m, while the deceased Venugopal Rao proceeding towards Subedari, Hanmkonda on his scooter bearing No. AIL 6795, when he reached near DIG Office, one Matador van bearing No. AP 36 T 0453, which was also proceeding towards Subedari came in rash and negligent manner, dashed the deceased scooter, the deceased fell unconscious, he was shifted to Rohini Hospital and from there to NIMS, Hyderabad and that the deceased succumbed to the injuries while undergoing treatment at NIMS Hospital, against the claim of Rs.16,63,000/-.

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

3. Respondent No.1 remained exparte. Respondent No.2 filed counter denying the claim petition.

4. In order to prove the case of the claimants, PWs.1 and 2 were examined and marked Ex.A.1 to A.10 on behalf of the claimants and Ex.B.1 – policy was also marked with consent. No oral evidence is adduced on behalf of the respondents.

5. Learned standing counsel for the appellant contended that the compensation granted by the tribunal is on higher side without any proper evidence and hence, prayed to award only just and reasonable compensation by taking the things as on the date of accident appeal.

6. Learned counsel appearing for the claimants contended that the award passed by the tribunal is well considered and needs no interference of this Court and hence, prayed to dismiss the appeal.

7. On perusal of the entire material available on record and having regard to the facts and circumstances of the case, the order passed by the tribunal is well considered and needs no interference of this Court. In the light of the judgment of the Apex Court in **Sarala Verma and others v Delhi Transport Corporation and another**¹, the total gross salary is to be considered and even if the said principle is applied, other issues have to be reconsidered and that the claimant will get more compensation. But it is the case of the

¹ 2009 ACJ 1298

insurance company and that there is no appeal or x objections by the claimants and hence, this Court cannot go into those issues. Accordingly, the appeal filed by the insurance company is liable to be dismissed.

8. In view of the above, the appeal is dismissed confirming the order and decree dated 22.02.2006 passed in M.V.O.P.No.864 of 2002 by the III Motor Accidents Claims Tribunal, Warangal. There shall be no order as to costs.

Miscellaneous petitions if any, shall stand closed.

Date: 17-10-2019
kvrn

T.AMARNATH GOUD,J

