

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. NO.1235 OF 2011

JUDGMENT:

This appeal is preferred by the appellant/NWKSRTC questioning the Order and Decree of the Motor Accident Claims Tribunal-cum-Chief Judge, City Civil Courts, Hyderabad (for short, the Tribunal) in M.V.O.P.No.545 of 2006, dated 16.07.2010.

2. The brief facts of the case are that on 23.12.2005 at about 8.00 am., while respondent No.1 herein/claimant was going on his motorcycle bearing No.AP28E 8468 from his residence Shamshabad to his office at Himayathnagar, and when he reached Tadbund main road, a bus bearing No.KA26F 501 of Gadag Depot of Karnataka State Road Transport Corporation came in the opposite direction in a rash and negligent manner and dashed the motorcycle of the claimant, as a result of which, the claimant sustained fracture injuries and other grievous injuries all over the body. He filed the aforesaid MVOP against appellant herein and respondent Nos.2 to 4 herein, claiming compensation of Rs.10,00,000/- for the injuries sustained by him in the said accident.

3. Before the Tribunal, the appellant/NWKSRTC filed a counter denying the allegations and contended that the amount claimed by the claimant is highly excessive and that it is not liable to pay any compensation and prayed to dismiss the claim petition.

4. After considering the oral and documentary evidence on record, the Tribunal came to the conclusion that the accident

occurred due to the rash and negligent driving of the driver of the bus and awarded total compensation of Rs.10,58,625/- under various heads, with interest at the rate of 9% per annum. Aggrieved by the said order, the appellant/NWKRTC filed the present appeal.

5. Sri G.V. Jayasimha, the learned Standing Counsel for the appellant, submitted that there is contributory negligence on the part of respondent No.1 in causing the accident and hence, the Tribunal ought to have fixed contributory negligence on respondent No.1. He further submitted that the deceased was aged about 29 years at the time of accident and the appropriate multiplier for calculation of compensation is '17' as per **Smt.Sarla Varma Vs. Delhi Transport Corporation**¹, but the Tribunal wrongly adopted the multiplier '18'. He further submitted that the Tribunal wrongly granted 9% interest, which is excessive and sought to reduce the compensation.

6. Sri V.Atchuta Ram, learned counsel for respondent No.1, submitted that submitted that the Tribunal passed a well reasoned order and sought to dismiss the appeal.

7. A perusal of the order of the Tribunal, it is clear that the appellant did not adduce any evidence before the Tribunal or this Court to show that there is contributory negligence on the part of respondent No.1 in causing the accident and hence, the argument of the learned counsel for the appellant in that regard is rejected.

¹ 2009(6) SCC 121

Insofar as granting interest @ 9% per annum is concerned, this Court is not inclined to interfere with the same, as in number of cases the Hon'ble Supreme Court confirmed the rate of interest at 9% per annum. Coming to multiplier aspect, as the deceased was aged about 29 years at the time of accident, the appropriate multiplier is '17' as per **Smt.Sarla Varma's** case (supra), but the Tribunal wrongly adopted '18' multiplier, which needs interference. Therefore, loss of earning comes to Rs.8,56,800/- (Rs.50,400/- X 17). Except the said modification, the order of the Tribunal remains unchanged.

8. Accordingly, the Motor Accident Civil Miscellaneous Appeal is partly allowed reducing the compensation amount awarded by the Tribunal from Rs.10,58,625/- to Rs.10,08,225/-. Miscellaneous petitions pending, if any, shall stand dismissed. No order as to costs.

Date: 19-08-2019
TJMR

T.AMARNATH GOUD, J