

***THE HON'BLE SRI JUSTICE T.AMARNATH GOUD**

+ MACMA Nos.316 OF 2011, 2523 & 4099 OF 2012

% 30—08—2019

MACMA.No.316 of 2011:

B.Srinivasa Rao

...Appellant

vs.

\$ APSRTC, rep. by its Managing Director

... Respondents

!Counsel for the Appellant: Smt.B.Roja Ramani

^Counsel for Respondent: Sri N.Vasudeva Reddy, Standing Counsel

MACMA.No.2523 of 2012:

Smt.S.Rani and Others

...Appellants

vs.

\$ M.Buggaiah and Another

... Respondents

!Counsel for the Appellants: Sri K.Jagathpal Reddy

^Counsel for Respondent No.1:

^Counsel for Respondent No.2: Sri N.Mohan Krishna

MACMA.No.4099 of 2012:

Smt.A.K. Latha and Others

...Appellants

vs.

\$ Managing Director, APSRTC & Another

... Respondents

!Counsel for the Appellants: Smt.B.Roja Ramani

^Counsel for Respondents: Sri C.Suil Kumar Reddy, Standing Counsel

<Gist :

>Head Note :

? Cases referred

1. 1998 ACJ 169
2. (1961) 1 QB 278
3. 1982 ACJ 470 (J&K)
4. 2014 (6) ALD 281
5. 2014 (2) ALD 468
6. 1998 (4) ALT 669
7. 2006 ACJ 2143
8. 2009 (4) ALD 491
9. (2012) 12 SCC 198
10. 2019 ACJ 559
11. 2003 (2) SCC 274



IN THE HIGH COURT FOR THE STATE OF TELANGANA
HYDERABAD

* * * *

MACMA Nos.316 OF 2011, 2523 & 4099 OF 2012

MACMA.No.316 of 2011:

B.Srinivasa Rao

...Appellant

Vs.

APSRTC, rep. by its Managing Director

... Respondents

MACMA.No.2523 of 2012:

Smt.S.Rani and Others

...Appellants

Vs.

M.Buggaiah and Another

... Respondents

MACMA.No.4099 of 2012:

Smt.A.K. Latha and Others

...Appellants

Vs.

Managing Director, APSRTC & Another

... Respondents

JUDGMENT PRONOUNCED ON: 30.08.2019

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? :
2. Whether the copies of judgment may be
Marked to Law Reporters/Journals? :
3. Whether His Lordship wishes to
see the fair copy of the Judgment? :

T.AMARNATH GOUD, J

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD**M.A.C.M.A. Nos.316 OF 2011, 2523 AND 4099 OF 2012****COMMON JUDGMENT:**

Though all these appeals arise out of different accidents, as the legal issue involved in them is one and the same, they are being disposed of by this common judgment.

MACMA.No.316 of 2011:

2. This appeal is filed by the appellant-claimant aggrieved by the Order and Decree dated 31.05.2010 passed in M.V.O.P.No.955 of 2006 by the Motor Vehicles Accident Claims Tribunal-cum-XIV Additional Chief Judge (Fast Track Court), Hyderabad, (for short, the Tribunal-I).

3. The brief facts of the case are that on 12.12.2005 at about 9.20 am., while the appellant was waiting for an auto near Chandra Petrol Bunk, Erragadda, the driver of the RTC bus bearing No.AP10Z 7715 came from Sanathnagar in a rash and negligent manner and dashed him and rear wheels of the bus ran over the legs of the appellant, as a result of which, the appellant sustained grievous injuries to both his legs. The appellant filed aforesaid MVOP against the respondent-RTC, claiming compensation of Rs.2,00,000/- for the injuries sustained by him.

4. Before the Tribunal-I, the respondent-RTC filed a counter denying the averments of the claim petition and contended that the

amount claimed is excessive and prayed to dismiss the claim petition.

5. After considering the evidence produced by the parties, the Tribunal-I came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the bus. With regard to compensation, though the Tribunal-I arrived at the total compensation at Rs.3,76,400/-, but restricted the compensation amount to Rs.2,00,000/-, on the ground that the claimant claimed only Rs.2,00,000/-. Dissatisfied with the quantum of compensation, the appellant filed the present appeal, seeking enhancement of the same.

MACMA.No.2523 of 2012:

6. This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 19.10.2006 passed in O.P.No.372 of 2005 by the III Additional Chief Judge, City Civil Court, Hyderabad (for short, the Tribunal-II).

7. The brief facts of the case are that appellant No.1 is the wife, appellant Nos.2 and 3 are the sons, appellant No.4 is the daughter and appellant No.5 is the mother of the deceased, S.Satyanarayana. On 18.11.2004, while the deceased was traveling in auto bearing No.AP28V 6198 to go to Malkapur, the driver of the said auto drove it in a rash and negligent manner and hit another auto in opposite direction by going into wrong side. In the said accident, the deceased died on the spot. The claimants

filed aforesaid OP claiming compensation of Rs.3,00,000/- against respondent Nos.1 and 2, the owner and the insurer of the auto, for the death of the deceased.

8. Before the Tribunal-II, the respondents filed separate counters denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

9. After considering the evidence produced by the parties, the Tribunal-II came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the auto. With regard to compensation, though the Tribunal-II arrived at the total compensation at Rs.4,80,000/-, but restricted the compensation amount to Rs.3,00,000/-, on the ground that the claimants claimed only Rs.3,00,000/-. Dissatisfied with the quantum of compensation, the appellants filed the present appeal, seeking enhancement of the same.

MACMA.No.4099 of 2012:

10. This appeal is filed by the appellants-claimants aggrieved by the Award dated 27.06.2011 passed in O.P.No.1285 of 2008 by the I Additional Metropolitan Sessions Judge-cum-XV Additional Chief Judge, Hyderabad (for short, the Tribunal-III).

11. The brief facts of the case are that appellant No.1 is the wife, appellant No.2 is the son and appellant No.3 is the father of the deceased, A.K.Balasubramanyam. On 28.07.2007, while the

deceased was travelling on his Hero Honda motorcycle bearing No.AP10AS 8245 from Gandhi Hospital to Secunderabad side, RTC bus bearing No.AP22Z 3422 came from his behind with high speed in a rash and negligent manner and hit the deceased. In the said accident, the deceased fell down on the road and sustained grievous injuries. Immediately, he was shifted to Gandhi Hospital, where he was declared as dead. The claimants filed aforesaid OP claiming compensation of Rs.8,00,000/- against the respondents-RTC, for the death of the deceased.

12. Before the Tribunal-III, the respondents-RTC filed counter denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

13. After considering the evidence produced by the parties, the Tribunal-III came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the bus. With regard to compensation, though the Tribunal-III arrived at the total compensation at Rs.8,28,152/-, but restricted the compensation amount to Rs.8,00,000/-, on the ground that there is small difference between the amount arrived and the amount claimed. Dissatisfied with the quantum of compensation, the appellants filed the present appeal, seeking enhancement of the same.

14. It is clear from the record that the Tribunal I, II and III, respectively, have taken into consideration the oral and

documentary evidence adduced by the parties, and following the procedure enunciated in law, arrived at the compensation entitled to by the respective claimants. However, as the claimants sought compensation, which obviously is lower in quantum than the calculated compensation, the Tribunals had awarded the compensation sought by the claimants, giving rise to the present appeals whereunder the action of the Tribunals in restricting the compensation to the amount claimed though they apparently are eligible to higher quantum of compensation, is challenged before this Court. Nevertheless these appeals are filed seeking enhancement of compensation, under Section 173 of the Act, however, during the course of arguments, it was sought to be canvassed by the learned counsel for the appellants that despite being granted the entire quantum of compensation sought, the claimants can still file an appeal under Section 173 of the Act seeking enhancement of compensation and there is no bar against the claimants in approaching the Court seeking such enhancement.

15. During the course of arguments, the learned Standing Counsel for the insurance company and RTC raised a question that in all the appeals, as the Tribunals granted the whole amounts claimed by the claimants, the claimants cannot be said to be aggrieved persons within the meaning of Section 173 of the Act and hence, they cannot challenge the awards of the Tribunals in the present appeals.

16. In the circumstances, the main question that arises for determination in these appeals is *'whether a claimant, who is awarded the whole amount claimed in the petition, is eligible to file an appeal for an enhanced amount under Section 173 of the Act on the plea that such enhanced amount is the just compensation'*. As nothing is brought to my notice to show that this question has already been decided authoritatively, this Court appointed Sri Kota Subba Rao, Sri E.Venugopal Reddy and Sri A.Ramakrishna Reddy as *amicus curiae* to decide the said question. Unless the said question is decided first, this Court cannot go into the merits of these appeals.

17. Smt.B.Roja Ramani, learned counsel for the appellants in MACMA.No.316 of 2011 and 4099 of 2012, submits that even though the Tribunal grants whole amount, as claimed by the claimant, he does not forego the right of preferring appeal seeking enhancement of compensation. She further submits that even the Tribunal grants whole amount claimed by the claimant, it cannot be said that the claimant has no grievance against the said Award and he can seek enhancement of compensation in view of changed circumstances and law. She further submits that even though the claimants sought meager amounts, it is the duty of the Tribunal to grant 'just compensation' over and above the claimed amount, if he is entitled to. She further submits that in view of the said proposition and change of law, the appellants are entitled to more compensation. In M.V.O.P.No.955 of 2006 and O.P.No.1285 of

2008, though the claimants claimed meager amounts, the Tribunal-I and Tribunal-III ought to have granted 'just compensation' without restricting it to the amount claimed and seek to enhance the compensation amounts.

18. Sri Jagathpal Reddy Kasireddy, learned counsel for the appellant in MACMA.No.2523 of 2012, submits that according to the Act, after the accident, the concerned Police have to give the information to the concerned Court, and on the basis of the entitlement, the Tribunal has to award just compensation basing on the evidence available before it. He further submits that as per Section 173 of the Act, the aggrieved party has to prefer an appeal, and hence, even the Tribunal grants the whole amount as sought by the claimant, he has the right to prefer an appeal along with application seeking to enhancement of the compensation amount. He further submits that for want of lack of funds, the claimants sometimes restricts the claim, but after passing of Award, on realizing that he is entitled to more amount than he claimed, he has every right to prefer an appeal seeking enhancement of compensation by paying the Court fee. He further submits that the law does not prohibit the claimant from seeking further claim, even though the Tribunal awarded the claimed amount in full. He further submits that appeal is the continuation of original claim, claimant has every right to seek enhancement of the same. He further submits that though the claimants in OP.No.372 of 2005 claimed meager amount, the Tribunal-II ought to have granted 'just

compensation' without restricting it to the amount claimed and seek to enhance the compensation amount.

19. Sri N.Vasudeva Reddy, learned Standing Counsel for the respondent in MACMA.No.316 of 2011, Sri C.Sunil Kumar Reddy, learned Standing Counsel for the respondents in MACMA.No.4099 of 2012 and Sri N.Mohan Krishna, learned Standing Counsel for respondent No.2 in MACMA.No.2523 of 2012, submit that when the Tribunal grants whole claimed amount, the question of the claimant being aggrieved against the Award does not arise and he cannot prefer appeal against the same. They further submit that in the present appeals, as the Tribunals granted whole amounts claimed by the claimants, the appeals are liable to be dismissed.

20. Sri Kota Subba Rao, *amicus curiae*, submits that in spite of granting the full amount by the Tribunal, if the claimant is dissatisfied with the same, he can file a review application under Order XLVII Rule 1 of the Civil Procedure Code, 1908 (for short, the Code) before the Tribunal seeking to enhance the compensation instead of preferring an appeal. In this regard, he relied on a decision of the High Court of Madhya Pradesh in **National Insurance Company Ltd., Jabalpur V. Lachhibai Urf Laxmibai**¹. He further submits that when the Tribunal grants whole amount claimed by the claimant, he does not come under the purview of Section 173 of the Act, as he does not have any grievance against the Award and hence, he cannot prefer the appeal. He further

¹ 1998 ACJ 169

submits that the expression 'person aggrieved' has been explained in the case of **Buxton V. Minister of Housing**², wherein it was held that *'person aggrieved means a person who has suffered a legal grievance and against whom a decision has been pronounced which has wrongfully deprived him of something or wrongfully refused him something or wrongfully affected his title to something.* He further submits that Full Bench of the High Court of Jammu and Kashmir, in **United India Firm and General Insurance Co. Ltd. V. Lakshmi Short Ganjoo**³, observed that *'aggrieved party contains the inherent limitations in the matter of filing of an appeal. The expression in the context of Section 110-D has to be interpreted and understood in common parlance. It is not possible to give an exhaustive definition of the expression, which has to be interpreted in the context in which it appears in a particular statute. As a general principle, it has to be held by the Court that a person who feels disappointed with the result of a case is not necessarily a 'person aggrieved' to be so classified, he must be disappointed of a benefit which he would have received if the order had gone other way. The order must cause him the legal grievance by wrongfully depriving him of something. If he was not entitled to relief in first place, he cannot be aggrieved if the relief was denied to him. But if he was entitled and the same has been denied to him, he would be a 'person aggrieved'. Thus, a party would be regarded as an 'aggrieved party' for the purpose of Section 110-D where the claim or*

² (1961) 1 QB 278

³ 1982 ACJ 470 (J&K)

defence available to that party does not find favour with the Tribunal. He further submits that in the absence of cross-objection or independent appeal by the claimants even under Order XLI Rule 33 of the Code, the appellate Court has no power to enhance the claim. In this regard, he relied upon the decisions of this Court in **New India Assurance Co. Ltd. V. Basantha Mohanth⁴** and **National Insurance Co. Ltd. V. Saheb @ Gadivan Saheb⁵**.

21. He further submits that in **B.H.Nagarathana V. Karnataka S.R.T.C.⁶** this Court held that *‘when the appellants claimed a particular sum and when the whole claim has been granted, it would be far-fetched to say that the appellants are still aggrieved because the Court had jurisdiction to grant a larger amount. May be that the appellants felt disappointed when they came to know that they could have claimed larger amount. It is settled legal position that feeling of disappointment is not equivalent to “to be aggrieved”.* He further submits that this Court in **National Insurance Co. Ltd. V. B.Rama Goud⁷** held that *‘when the claimant was awarded the compensation sought and when no finding is against him, claimant cannot be said to be a ‘person aggrieved’ by the award passed by the Tribunal’.* He further submits that this Court in **Oriental Insurance Co. Ltd., Cuddapah V. Yarava Lakshmi Devi⁸** held that *‘when a party is barred from filing cross-objections and when a party ordinarily is barred from claiming a better relief than what he claimed before the*

⁴ 2014 (6) ALD 281

⁵ 2014 (2) ALD 468

⁶ 1998 (4) ALT 669

⁷ 2006 ACJ 2143

⁸ 2009 (4) ALD 491

Court/Tribunal of original jurisdiction, can such party be permitted to seek quantitatively better relief in terms of money, only because the Court below observed that the parties would have got more money. The law does not permit such course of action. Procedural law is no doubt described as an adjutant law for proper enforcement of substantive law. It does not, however, mean that by interpreting procedural law to suit a situation, the substantive rights of others can be defeated’. He further submits that even though the Hon’ble Supreme Court, while dealing with the appeal of the insurance company enhanced the compensation by *suo motu* without there being any cross appeal/cross objections by the claimant in **New India Assurance Co. Ltd. V. Gopali**⁹, the same cannot be binding precedent on the other Courts, as the Hon’ble Supreme Court re-determined and enhanced the compensation, in the facts and circumstances of that case, by invoking its power under Article 34 of the Constitution of India. Therefore, that decision cannot give right to a claimant to seek enhancement of compensation in the appeal filed by the insurance company without preferring an appeal and also to prefer an appeal against the Award, in which, he was awarded whole amount. In substance, he expressed opinion that when the Tribunal grants whole claim amount to the claimant, he cannot be said to be an aggrieved person under Section 173 of the Act and therefore, he cannot file appeal challenging such an Award.

⁹ (2012) 12 SCC 198

22. Sri E.Venugopal Reddy, *amicus curiae*, submits that the Act is a beneficial and welfare legislation and there is no restriction that the Court cannot award compensation exceeding the claimed amount, since the function of the Tribunal or Court under Section 168 of the Act is to award 'just compensation'. He further submits that a 'just compensation' is one which is reasonable on the basis of evidence produced on record and that it cannot be said to have become time-barred. He further submits that there is no need for a new cause of action to claim an enhanced amount and the Courts are duty bound to award just compensation. In this regard, he relied upon a decision of the Hon'ble Supreme Court in **Ramla V. National Insurance Company Limited**¹⁰. He further submits that Section 173 of the Act cannot be restricted to only aggrieved party, but it gives broader meaning, since likely expected amount is not being achieved, the claimant can file an application seeking further enhancement on the basis of other factors. He further submits that a Division Bench of the Hon'ble Supreme Court in **Nagappa V. Gurudayal Singh**¹¹ held that *'there is no restriction that compensation could be awarded only up to the amount claimed by the claimant. In an appropriate case, where from the evidence brought on record if the Tribunal/ Court considers that the claimant is entitled to get more compensation than claimed, the Tribunal may pass such award'*. He further submits that the said issue is no longer *res integra* as the said decision is being followed by the

¹⁰ 2019 ACJ 559

¹¹ 2003 (2) SCC 274

Hon'ble Supreme Court in its consequent judgments, which holds good. He further submits that though when the claimant claimed a particular sum and when the whole claimed amount has been granted, it does not mean that the claimant is not the aggrieved person and he may prefer appeal seeking to enhance the compensation, as there is no bar to that effect in the Act. He further submits that the Hon'ble Supreme Court, in **Gopali's** case (supra), while dealing with the appeal of the insurance company, enhanced the compensation by *suo motu* without there being any cross appeal/cross objections by the claimant. He further submits that, in view of the above, the appellate Court has got jurisdiction to enhance the compensation amount in the appeal filed by the insurance company in the absence of any appeal/cross objection by the claimant and hence, the question of restraining the claimant from preferring appeal on the ground of Tribunal passed the whole amount, as claimed by him. In substance, he expressed opinion that even the Tribunal grants the whole claim amount to the claimant, he can prefer appeal under Section 173 of the Act, and the appellate Court has the jurisdiction and power to enhance the compensation amount, if it arrives just compensation more than the amount claimed.

23. Sri A.Ramakrishna Reddy, *amicus curiae*, supported the arguments of Sri E.Venugopal Reddy.

24. During the course of submissions, both the *amicus curiae* i.e., Sri Kota Subba Rao and Sri E.Vengupoal Reddy, raised another

question, by relying upon the decision of the Hon'ble Supreme Court, that *'whether the appellate Court has got jurisdiction to enhance the compensation amount in the appeal filed by the insurance company in the absence of any appeal/cross objection by the claimant'*. As the said question does not arise for determination in these appeals, the same cannot be decided. Therefore, this Court is not inclined to go into that issue.

25. In the said backdrop, to decide the question *'whether a claimant, who is awarded the whole amount claimed in the petition, is eligible to file an appeal for an enhanced amount under Section 173 of the Act on the plea that such enhanced amount is the just compensation'*, it is necessary to refer to Sections 160, 163, 163-A, 166, 172, 173 and 175 of the Act, which read as under:

“160. Duty to furnish particulars of vehicle involved in accident.— A registering authority or the officer-in-charge of a police station shall, if so required by a person who alleges that he is entitled to claim compensation in respect of an accident arising out of the use of a motor vehicle, or if so required by an insurer against whom a claim has been made in respect of any motor vehicle, furnish to that person or to that insurer, as the case may be, on payment of the prescribed fee any information at the disposal of the said authority or the said police officer relating to the identification marks and other particulars of the vehicle and the name and address of the person who was using the vehicle at the time of the accident or was injured by it and the property, if any, damaged in such form and within such time as the Central Government may prescribe.

163. Scheme for payment of compensation in case of hit and run motor accidents.— (1) The Central Government may, by notification in the Official Gazette, make a scheme specifying, the manner in which the scheme shall be administered by the General Insurance Corporation, the form, manner and the time within which applications for compensation may be made, the officers or authorities to whom such applications may be made, the procedure to be followed by such officers or authorities for considering and passing orders on such applications, and

all other matters connected with, or incidental to, the administration of the scheme and the payment of compensation.

(2) A scheme made under sub-section (1) may provide that—

- (a) a contravention of any provision thereof shall be punishable with imprisonment for such term as may be specified but in no case exceeding three months, or with fine which may extend to such amount as may be specified but in no case exceeding five hundred rupees or with both;
- (b) the powers, functions or duties conferred or imposed on any officer or authority by such scheme may be delegated with the prior approval in writing of the Central Government, by such officer or authority to any other officer or authority;
- (c) any provision of such scheme may operate with retrospective effect from a date not earlier than the date of establishment of the Solatium Fund under the Motor Vehicles Act, 1939 (4 of 1939) as it stood immediately before the commencement of this Act.

Provided that no such retrospective effect shall be given so as to prejudicially affect the interests of any person who may be governed by such provision.

163-A. Special provisions as to payment of compensation on structured formula basis.—

(1) Notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle or the authorised insurer shall be liable to pay in the case of death or permanent disablement due to accident arising out of the use of motor vehicle, compensation, as indicated in the Second Schedule, to the legal heirs or the victim, as the case may be.

Explanation.—For the purposes of this sub-section, “permanent disability” shall have the same meaning and extent as in the Workmen’s Compensation Act, 1923 (8 of 1923).

(2) In any claim for compensation under sub-section (1), the claimant shall not be required to plead or establish that the death or permanent disablement in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or vehicles concerned or of any other person.

(3) The Central Government may, keeping in view the cost of living by notification in the Official Gazette, from time to time amend the Second Schedule.

166. Application for compensation.— (1) An application for compensation arising out of an accident of the nature specified in sub-section (1) of section 165 may be made—

- (a) by the person who has sustained the injury; or
- (b) by the owner of the property; or
- (c) where death has resulted from the accident, by all or any of the legal representatives of the deceased; or
- (d) by any agent duly authorised by the person injured or all or any of the legal representatives of the deceased, as the case may be.

Provided that where all the legal representatives of the deceased have not joined in any such application for compensation, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined, shall be impleaded as respondents to the application.

(2) Every application under sub-section (1) shall be made, at the option of the claimant, either to the Claims Tribunal having jurisdiction over the area in which the accident occurred, or to the Claims Tribunal within the local limits of whose jurisdiction the claimant resides or carries on business or within the local limits of whose jurisdiction the defendant resides, and shall be in such form and contain such particulars as may be prescribed.

Provided that where no claim for compensation under section 140 is made in such application, the application shall contain a separate statement to that effect immediately before the signature of the applicant.

(3) -- (Omitted by Act 54 of 1994.)

(4) The Claims Tribunal shall treat any report of accidents forwarded to it under sub-section (6) of section 158 as an application for compensation under this Act.

172. Award of compensatory costs in certain cases.—

(1) Any Claims Tribunal adjudicating upon any claim for compensation under this Act, may in any case where it is satisfied for reasons to be recorded by it in writing that—

- (a) the policy of insurance is void on the ground that it was obtained by representation of fact which was false in any material particular, or
- (b) any party or insurer has put forward a false or vexatious claim or defence,

such Tribunal may make an order for the payment, by the party who is guilty of misrepresentation or by whom such claim or defence has been put forward of special costs

by way of compensation to the insurer or, as the case may be, to the party against whom such claim or defence has been put forward.

(2) No Claims Tribunal shall pass an order for special costs under sub-section (1) for any amount exceeding one thousand rupees.

(3) No person or insurer against whom an order has been made under this section shall, by reason thereof be exempted from any criminal liability in respect of such mis-representation, claim or defence as is referred to in sub-section (1).

(4) Any amount awarded by way of compensation under this section in respect of any misrepresentation, claim or defence, shall be taken into account in any subsequent suit for damages for compensation in respect of such misrepresentation, claim or defence.

173. Appeals.— (1) Subject to the provisions of sub-section (2) any person aggrieved by an award of a Claims Tribunal may, within ninety days from the date of the award, prefer an appeal to the High Court.

Provided that no appeal by the person who is required to pay any amount in terms of such award shall be entertained by the High Court unless he has deposited with it twenty-five thousand rupees or fifty per cent. of the amount so awarded, whichever is less, in the manner directed by the High Court.

Provided further that the High Court may entertain the appeal after the expiry of the said period of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

(2) No appeal shall lie against any award of a Claims Tribunal if the amount in dispute in the appeal is less than ten thousand rupees.

175. Bar on jurisdiction of Civil Courts.— Where any Claims Tribunal has been constituted for any area, no Civil Court shall have jurisdiction to entertain any question relating to any claim for compensation which may be adjudicated upon by the Claims Tribunal for that area, and no injunction in respect of any action taken or to be taken by or before the Claims Tribunal in respect of the claim for compensation shall be granted by the Civil Court.”

26. It is also necessary to refer to Rules 457 and 473 of the Andhra Pradesh Motor Vehicles Rules, 1989 reads as under:

“457. Summary dismissal of application:- The Claims Tribunal may after considering the application and the statement if any, of the applicant recorded under Rule 456 dismiss the application summarily, if for reasons to be recorded, it is of the opinion that there are no sufficient grounds for proceeding therewith.

473. Code of Civil Procedure to apply in certain cases:- The following provisions of the First Schedule to the Code of Civil Procedure, 1908 (Central Act 5 of 1908), shall so far as may be, apply to proceedings before the Claims Tribunal namely, Order V, Rules 9 to 13 and 15 to 30; Order IX, Order XIII, Rules 3 to 10; Order XVI, Rules 2 to 21; Order XVII and Order XXVIII, Rules 1 to 3.”

27. As per Oxford Dictionary, the definitions of following words, which are necessary to decide the issue, are as follows:

“Aggrieved:- Resentful because of unfair treatment.

Grievance:- Real or imagined cause for complaint.

Award:- Give as an official payment, reward or prize.

Compensation:- Something awarded to compensate for loss, suffering, or injury.”

28. Section 173 of the Act provides for an appeal to the High Court, if the claimant is aggrieved by the order of the Tribunal. When the Tribunal/Court grants whole claimed amount, the question of the claimant being aggrieved against the Award does not arise and he cannot prefer appeal against the same.

29. In many cases, the Tribunals even though came to the conclusion that the claimant/s is/are entitled to compensation more than the amount they claimed, they restricted the compensation to the claimed amount itself, which is contrary to the principle laid down in **Nagappa’s** case (supra), according to which,

it is the bounden duty of the Tribunals to award just compensation to the claimants.

29. It needs no emphasis that it is obligatory for the Courts to determine the aspects or issues emanating from the given set of facts, basing on the oral as well as documentary evidence adduced. And, it is only thereafter, after due process of trial and appreciating the deposition of the witnesses, coupled with the documentary evidence, the compensation is determined; and it is not the other way round.

30. Therefore, the argument that the claimants are entitled to file an appeal under Section 173 of the Act, even upon granting by the Tribunal/trial Court the entire compensation sought, is liable to be dismissed and is accordingly done so, as a claimant cannot exercise a remedy just because it exists, without *prima facie* having a case for determining by exercising such remedial provision. There has to be factual basis or evidence for arriving at a particular compensation, either by the Tribunal or this Court, and if the claimant is aggrieved or of the opinion that his evidence is not properly adjudicated, he can necessarily exercise appeal remedy under Section 173 of the Act. Therefore, this Court appreciates the assistance of Sri Kota Subba Rao. Accordingly, the question is decided.

31. In the facts of the present case, the appeals are maintainable for the mere reason that though the Tribunal adjudicated with

respect to entitled compensation, however, since it curtailed the same for the reason that the claimed compensation is lower than the calculated compensation, which obviously is not in line with the settled principle of “just and fair compensation” enunciated in **Nagappa’s** case (supra), the appeals are liable to be allowed so far as to that extent.

32. In view of the discussion above, and as the Tribunals have downsized the compensation to the compensation sought by the claimants in the original petitions, the appeals are allowed by awarding the difference of compensation i.e., difference in the compensation awarded vis-à-vis the compensation arrived at by considering the material on record. The following tabular format would elucidate.

S.No.	MACMA No.	Compensation Awarded by Tribunal	Compensation awarded in the appeal
1	316 of 2011	Rs.2,00,000/-	Rs.3,76,400/-
2	2523 of 2012	Rs.3,00,000/-	Rs.4,80,000/-
3	4099 of 2012	Rs.8,00,000/-	Rs.8,28,152/-

33. Accordingly, the MACMAs are allowed. The enhanced amount shall carry interest @ 7.5% per annum from the date of claim petition till realization. Miscellaneous petitions pending, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 30.08.2019
Note: L.R. Copy to be marked
B/o.TJMR