

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

MACMA No. 57 OF 2012

JUDGMENT:

This appeal is directed against the order dated 06.09.2011 passed by XI-Additional Chief Judge (FTC), City Civil Court, Hyderabad (for short 'the Tribunal), in O.P.No.1683 of 2009 whereby the Tribunal after considering the oral and documentary evidence available on record awarded compensation of Rs.3,68,500/-, on account of the death of Yadaiah caused in a motor vehicle accident that occurred on 12.06.2009 at 06.00 p.m. when the deceased was traveling in an auto from Keesara side to go to his village Jalalpuram, Ranga Reddy District, its driver drove in rash and negligent manner and dashed a stationed lorry bearing No. AP 16 W 1737 parked in the middle of the road without indicators near Ankireddypally Cross Road, Keesara Mandal, so the deceased fell down from the auto and sustained fatal injuries and died on the spot and other inmates of the auto received injuries, as against the claim of Rs.5,00,000/-.

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

3. Being dissatisfied with the order passed by the Tribunal, the claimants preferred this appeal seeking enhancement of compensation contending that the tribunal granted the less compensation without appreciating the oral and documentary evidence in proper perspective, wrongly taken the earnings of the

deceased on lower side, wrongly taken the multiplier and the tribunal did not consider the future prospects and that the consortium, loss of estate, funeral expenses and the interest granted by the tribunal are very less and that the liability fixed on respondents 1, 2 and 4 is without consideration and that respondents 1 to 4 are liable to pay the compensation and prayed to allow the appeal.

4. The tribunal examined PWs.1 and 2 and marked Exs.A1 to A.5 on behalf of the appellant. No oral or documentary evidence was adduced on behalf of the respondents. Both the owners of the vehicles remained exparte. Both the insurers filed separate counters denying the accident, involvement of both vehicles in the accident, their liability, the drivers were not having driving license and that the claim is excessive.

5. There is no dispute with regard to the manner of accident and involvement of the vehicle. As per Exs.A3-inquest report and A.4-postmortem report, the age of the deceased is 45 years, but not 43 years as taken by the tribunal. As per admission of the claimants, the monthly income of the deceased is Rs.3,250/- and annual income is Rs.39,000/-. The dependents are three in number, 1/3 has to be deducted towards personal expenses, which comes to Rs.26,000/- (Rs.39,000/- x 1/3) per annum . Since the age of the deceased is 45 years, the relevant multiplier is '14 as per the decision of the Apex Court in **Sarala Verma and others v**

Delhi Transport Corporation and another¹. The deceased is self employer, as per decision of the apex Court in **National Insurance Co. Ltd. v Pranay Sethi**², 25% towards future prospects and conventional heads at Rs.70,000/- have to be added. Thus, the loss of dependency comes to Rs.4,55,000/- (Rs.26,000/- x 14 + 25%). Thus, the claimants are entitled for a total compensation of Rs.5,40,000/- (Rs.4,55,000/- + Rs.70,000/- + Rs.15,000/-). In all other aspects, the order passed by the tribunal remains unchanged. The compensation amount shall carry interest 7.5% per annum from the date of petition till the date of realization. Respondents 1, 2 and 4 are directed to deposit the compensation amount jointly and 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 as per their proportionate share. 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.

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

Miscellaneous petitions if any, shall stand closed.

T.AMARNATH GOUD,J

Date: 20.08.2019
kvrn

¹ 2009 ACJ 1298

² 2017 (6) 170 (SC)