

HONOURABLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.139 of 2012

JUDGMENT:

This appeal is filed by the claimants under Section 173 of the Motor Vehicles Act aggrieved by the orders passed by the Chairman, Motor Accidents Claims Tribunal-cum-District Judge, Mahabubnagar (for short 'the Tribunal') in O.P.No.465 of 2007 dated 23.11.2010.

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

3. The brief facts of the case are that on 18.08.2006 at about 07.00 PM the deceased along with his friends left Mahabubnagar in their Maruti car bearing No.AP-10-H-8484 to Shadnagar. After having dinner while they were returning from Shadnagar and proceeding near Jadcherla at about 12.30 AM, a lorry bearing No.AP-15-W-4446 came in opposite direction from Kurnool side in a rash and negligent manner and dashed the Maruti car; in the meantime a bus bearing No.KA-01-AF-2266 came from Hyderabad side in a rash and negligent manner dashed the Maruti car from its back, due to which the deceased died on the spot. According to the claimants, the deceased was aged about 18 years and studying B.Sc. 1st year and used to earn Rs.5,000/- per month as part time computer operator and also as hardware engineer.

4. The Tribunal has examined PWs.1 & 2 on behalf of the claimants and marked Exs.A1 to A11 and on behalf of the respondents, none were examined, but Exs.B1 & B2 were marked. The Tribunal after framing the issues, allowed the claim of the

claimants by awarding an amount of Rs.1,27,000/- against the claim of Rs.5,00,000/-.

5. Aggrieved by the meager amount awarded by the Tribunal, the claimants preferred the present appeal with the contentions that the Tribunal ought to have awarded the entire claim amount and sought for enhancement of the amount by allowing the appeal.

6. Sri PNA Christian, learned counsel for the 3rd respondent-insurance company supported the award of the Tribunal and sought to dismiss the appeal.

7. So far as quantum of compensation is concerned, the income of the deceased can be taken at Rs.5,000/- per month as just and reasonable. The age of the deceased is 18 years and '18' multiplier is applicable as per **Sarla Varma Vs. Delhi Transport Corporation**¹. As the deceased is unmarried, 50% has to be deducted towards personal expenses from his income. As per the expression in **National Insurance Company Limited Vs. Pranay Sethi**², the deceased being self-employed and aged about 18 years, 40% future prospects can be taken into consideration, which comes to Rs.2,000/-, in all deceased monthly income comes to Rs.7,000/- (Rs.5,000/- + Rs.2,000/-). Out of Rs.7,000/-, if 50% is deducted towards the personal expenses of the deceased, the net income comes to Rs.3,500/- (Rs.7,000/- (-) Rs.3,500/-). The loss of dependency comes to Rs.3,500/- x 12 x 18 = Rs.7,56,000/-. The claimants are entitled for Rs.30,000/- under conventional heads as per **Pranay Sethi** supra and claimant Nos.1 & 2 are

¹ 2009 (6) SCC 121

² 2017 (6) SCC 170

parents of the deceased and they are entitled for Rs.40,000/- each under the head of loss of love and affection as per **Magma General Insurance Company Limited Vs. Nanu Ram Alias Chuhru Ram**³, which comes to Rs.80,000/-. The total compensation to which the claimants are entitled to is Rs.8,66,000/-.

8. Accordingly and in the result, this Appeal is allowed by enhancing the amount awarded by the Tribunal from Rs.1,27,000/- to Rs.8,66,000/-. The enhanced amount shall carry interest at 7.5% per annum from the date of petition till the date of realization. The amount apportionment of 3:1 ratio decided by the Tribunal remains unchanged. Though the claim is made for Rs.5,00,000/- 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**⁴ the compensation awarded can be more than the claim. 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. No costs.

Miscellaneous petitions if any shall stand closed.

T.AMARNATH GOUD, J

Date: 23.12.2019
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³ 2018 Lawsuit (SC) 904

⁴ 2003(2) SCC 274