

**THE HON'BLE SMT. JUSTICE M.G.PRIYADARSINI**

**MA.CMA.NO.758 OF 2015**

**JUDGMENT**

Assailing the order and decree dated 24.12.2013, passed by the Motor Accidents Claims Tribunal – cum – XII Additional Chief Judge (Fast Track Court), City Civil Court at Hyderabad (Tribunal) in MVOP.No.1886 of 2008, the claimants filed the present appeal seeking enhancement of compensation granted by the Tribunal.

2. The Tribunal considering the evidence of P.W.1 and Exs.A-1 and A-2, which are the certified copies of FIR and inquest report, and as no contra evidence was led by the insurance company, held that the accident in question occurred due to rash and negligent driving of the driver of the crime vehicle bearing No. MH 17K 9810 and that the deceased died in the said accident.

3. The vehicle bearing No.MH 05 0691, in which the claimants and the deceased were travelling, and the crime vehicle bearing no. MH 17K 9810, were both insured by the United India Insurance Company Limited. The Tribunal apportioned the liability in the ratio of 75% : 25% respectively. The Insurance Company did not choose to file any appeal and hence the apportionment made by the Tribunal needs no interference.

4. There is no dispute that the policy of both the vehicles was in force as on the date of the accident.

5. The Tribunal awarded the following amounts:

1. Pecuniary Damages

-- Rs.1,50,000 – 00

|                                  |                    |
|----------------------------------|--------------------|
| 2. Non-pecuniary damages         | -- Rs. 75,000 – 00 |
| 3. Funeral and transport charges | -- Rs. 20,000 – 00 |
|                                  | -----              |
|                                  | Rs.2,45,000 – 00   |
|                                  | -----              |

6. Not being satisfied with the above compensation, the claimants filed the present appeal.

7. Heard both the counsel and perused the material on record.

8. It could be seen that though the claimants filed appeal under Section 163- A of the Motor Vehicles Act, 1988 (for short 'the Act'), the Tribunal found that the accident occurred due to rash and negligent driving of the driver of the crime vehicle and rightly awarded compensation under Section 166 of the Act.

9. The deceased is Kurra Ganesh, and as per Ex.A-3 post mortem report, he is aged 7 years.

10. In the judgment reported in **KURVAN ANSARI ALIAS KURVAN ALI vs. SHYAM KISHORE MURMU<sup>1</sup>**, the Apex Court considering similar facts and circumstances, and where the age of the deceased was seven years, who died in the motor accident, awarded an amount of Rs.3,75,000/- towards loss of dependency, by taking notional income of the deceased at Rs.25,000/- per annum and by applying the multiplier of 15. The Apex Court also awarded an amount of Rs.40,000/- each towards filial consortium to both the parents and Rs.15,000/- towards funeral expenses.

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<sup>1</sup>Civil Appeal No.6902 of 2021 dated 16.11.2021

11. Having regard to the facts and circumstances, and following the judgment of the Apex Court, this court is also inclined to grant the same amounts to the claimants.

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|--------------------------------------------------------|-------------------|
| 1. Loss of dependency<br>(Rs.25,000/- x multiplier 15) | Rs.3,75,000 -00   |
| 2. Filial consortium<br>(Rs.40,000/- X 2)              | Rs. 80,000 – 00   |
| 3. Funeral expenses                                    | Rs. 15,000 -00    |
|                                                        | -----             |
|                                                        | Rs. 4,70,000 – 00 |
|                                                        | -----             |

12. Thus, the amount granted by the Tribunal is enhanced from Rs.2,45,000/- to Rs.4,70,000/- with interest at the rate of 7.5 per cent per annum from the date of claim petition till the date of realization.

13. The claimants shall pay the deficit court fee. Any amount already deposited by the Insurance Company shall be given credit to.

14. The apportionment, deposit and withdrawal, shall be as ordered by the Tribunal.

15. The appeal is accordingly allowed to the extent indicated above.

16. Interlocutory Applications pending, if any, shall stand closed. No order as to costs.

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**M.G.PRIYADARSINI,J**

DATE:28—09—2022

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