

A THE APSRTC, REP. BY ITS GENERAL MANAGER
AND ANR.

v.

M. RAMADEVI AND ORS.
(Civil Appeal No. 682 of 2008)

B JANUARY 25, 2008

[DR. ARIJIT PASAYAT AND P. SATHASIVAM, JJ.]

Motor Vehicles Act, 1988 — s.166:

C *Motor accident – Causing death of employee of
appellant-Corporation – MACT awarded compensation –
Appeal by Corporation before High Court – Claimants did not
prefer any appeal – High Court, holding that the award passed
by MACT was inadequate, enhanced compensation –
D Contention of Appellant-corporation that in absence of any
appeal by the claimants, High Court ought not to have
enhanced the compensation amount – Held: Under the Act,
there is no restriction that the MACT/Court cannot award
compensation amount exceeding the claimed amount –
E Function of the MACT/Court is to award “just” compensation
based on the evidence on record.*

*Motor accident – Causing death of 40 year old employee
of appellant-Corporation – Computation of compensation –
Multiplier – Held: Compensation to be awarded by adopting
F multiplier of 10 and not 12 as adopted by both MACT and
High Court.*

**Respondents filed claim petition under s.166 of the
Motor Vehicles Act, 1988 seeking compensation for death
of an employee of appellant-Corporation in a motor
G accident. The Claims Tribunal awarded compensation by
taking the age of deceased as 40 years and his salary as
Rs.2,367/- per month and thereafter applying the multiplier
of 12. The Tribunal further awarded an amount of
Rs.20,000/- for non-pecuniary damages and consortium.**

H

The total compensation amount was directed to be paid with interest @ 12% p.a. Appellant-Corporation filed appeal before High Court, but the claimants-Respondents did not prefer any appeal. The High Court held that the award passed by the Tribunal was inadequate and enhanced the compensation amount by taking the monthly pay of deceased as Rs.3,536/- and thereafter adopting the multiplier of 12. The Court affirmed the additional award of Rs.20,000/- by Tribunal for non-pecuniary damages and consortium but reduced the interest payable on the total compensation amount from 12% p.a. to 9% p.a.

The contention of Appellant-corporation is that in absence of any appeal by the claimants-Respondents, the High Court ought not to have enhanced the compensation amount and that the High Court erred in adopting a higher multiplier.

Party allowing the appeal, the Court

HELD: 1. Under the Motor Vehicles Act, 1988 there is no restriction that the Tribunal/Court cannot award compensation amount exceeding the claimed amount. The function of the Tribunal/Court is to award "just" compensation which is reasonable on the basis of evidence produced on record. As provided under sub-section (4) to Section 166 of the Act, even the report submitted to the Claims Tribunal under sub-section (6) of Section 158 can be treated as an application for compensation under the said Act. [Para 9] [26-C-E]

Nagappa v. Gurdial Singh and Ors. (2003) 2 SCC 274 – relied on.

2.1. Considering the figure in Ex.A/7, the monthly income is taken at Rs.3,000/- and after deducting 1/3rd therefrom the annual contribution is fixed at Rs.24,000/-.
[Para 11] [26-G]

A 2.2. Adopting the multiplier of 10, the amount payable to the claimants comes to Rs.2,40,000/- to that shall be added the amount of Rs.20,000/- fixed by the Tribunal for non-pecuniary damages and consortium as there was no challenge by the Corporation to the award of such amounts. Therefore, the entitlement of the claimant comes to Rs.2,60,000/-. The interest rate of 9% fixed by the High Court does not warrant any interference. [Para 12] [26-H; 27-A-B]

C CIVILAPPELLATE JURISDICTION : Civil Appeal No. 682 of 2008.

From the final Judgment and Order dated 27.11.2003 of the High Court of Judicature of Andhra Pradesh at Hyderabad in Civil Misc. Appeal No. 784 of 2002.

D Ms. K. Radha Rani, P. Vijay Kumar and D. Mahesh Babu for the Appellants.

G.V.R. Choudary and K. Shivraj Choudhuri for the Respondents.

E The Judgment of the Court was delivered by
Dr. **ARIJIT PASAYAT**, J. 1. Leave granted.

F 2. Challenge in this appeal is to the judgment of the learned Single Judge of the Andhra Pradesh High Court. The appellant-Corporation had filed an appeal before the High Court questioning correctness of the award made by the Motor Accidents Claims Tribunal-cum-1st Addl. District Judge, R.R. District at Saroornagar, Hyderabad (hereinafter referred to as the 'Tribunal').

G 3. Background facts are as follows:

H A claim petition under Section 166 of the Motor Vehicles Act, 1988 was filed by the respondents claiming compensation of Rs.5,00,000/- on account of the death of M. Nageshwar Rao (hereinafter referred to as the 'deceased') in an accident on 18.5.1998. The deceased was working as a driver of the

appellant-Corporation. In the claim petition it was stated that the because of the rash and negligent driving of the bus No.A.P.10 Z 998 belonging to the Corporation which was being driven in a rash and negligent manner, the deceased lost his life. It was claimed that the deceased was 38 years of age and was an employee of the Corporation and was earning salary of Rs.4,467.50 p.m. The appellant-Corporation filed its objection before the Tribunal taking the stand that it was not liable to pay any compensation. The quantum of salary claimed and the age was also disputed.

4. The Tribunal observed that the age of the deceased was 40 years of age and he was getting a salary of Rs.4,000/- p.m. and after deduction his take home pay was Rs.2,367/- and the total emoluments was Rs.3,983/-. Applying the multiplier of 12 the entitlement was fixed at Rs.2,16,000/-, in addition Rs.15,000/- for non-pecuniary damages and Rs.5,000/- as consortium was awarded. Thus the total compensation awarded was fixed at Rs.2,46,000/-. The same was directed to be paid with interest @ 12% p.a.

5. The appellant-Corporation filed appeal before the High Court. It is to be noted that the claimants did not prefer any appeal. The High Court held that the award as made was inadequate and just compensation was not awarded.

6. The High Court was of the view that the pay of the deceased was Rs.3,536/- and not Rs.2,367/- as noted by the Tribunal. Accordingly, it fixed the basic pay of Rs.3,500/- after deducting 1/3rd towards the personal expenses. The monthly contribution was fixed at Rs.2,333/- and the annual contribution at Rs.27,996/-. The multiplier was taken at 12. Accordingly, entitlement was fixed at Rs.3,35,952/- to which was added the sum of Rs.20,000/- additionally awarded by the Tribunal.

7. In support of the appeal, learned counsel for the appellants submitted that when there was no appeal by the claimants in the appeal filed by the appellant-corporation, the High Court should not have enhanced the amount. It was also

A submitted that the multiplier as adopted was high.

8. Learned counsel for the respondents on the other hand submitted that there is no embargo on the Tribunal or the High Court awarding compensation exceeding the amount claimed. It was also submitted that the interest was reduced to 9% from 12% as fixed by the Tribunal. It was, therefore, submitted that there was no infirmity in the High Court's order.

9. In *Nagappa vs. Gurdial Singh and Ors.* (2003 (2) SCC 274) para 21 as follows:

C "21. For the reasons discussed above, in our view, under the MV Act, there is no restriction that the Tribunal/court cannot award compensation amount exceeding the claimed amount. The function of the Tribunal/court is to award "just" compensation which is reasonable on the basis of evidence produced on record. Further, in such cases there is no question of claim becoming time-barred or it cannot be contended that by enhancing the claim there would be change of cause of action. It is also to be stated that as provided under sub-section (4) to Section 166, even the report submitted to the Claims Tribunal under sub-section (6) of Section 158 can be treated as an application for compensation under the MV Act. If required, in appropriate cases, the court may permit amendment to the claim petition."

F 10. The other question that remains to be adjudicated is whether the income has been rightly adopted by the Tribunal and the High Court was correct and whether the correct multiplier was adopted.

G 11. Considering the figure in the Ex.A/7 the monthly income taken at Rs.3,000/- after deducting 1/3rd therefrom the annual contribution is fixed at Rs.24,000/-.

H 12. Adopting the multiplier of 10, the amount payable to the claimants comes to Rs.2,40,000/- to that shall be added the amount of Rs.20,000/- fixed by the Tribunal for non-pecuniary

damages and consortium as there was no challenge by the Corporation to the award of such amounts. Therefore, the entitlement of the claimant comes to Rs.2,60,000/-. The interest rate of 9% fixed by the High Court does not warrant any interference. A sum of Rs.2,00,000/- has been deposited by the Corporation pursuant to the direction given by this Court on 19.7.2004. Admittedly, the same has been withdrawn by the claimants. The balance amount shall be deposited by the appellant-Corporation within six weeks from today. Tribunal shall fix the terms for withdrawal/deposit of the amount in FDs as deemed appropriate.

13. The appeal is allowed to the aforesaid extent. No costs.

B.B.B.

Appeal partly allowed.