

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

M.A.C.M.A.No. 2126 of 2005

JUDGMENT:

The legal representatives of the deceased Sambasiva Rao filed M.V.O.P.No.552 of 1999 on the file of the Motor Accident Claims Tribunal-cum-I Additional District Judge, Srikakulam (for short 'the Tribunal') claiming a compensation of Rs.4,00,000/- on account of his death in a motor accident that occurred on 11.04.1999 at about

10.00 a.m. near Mahanthipeta junction in Dankada Mandal of Vizianagaram District. It was alleged that they have engaged a car bearing No.AP 31T 8088 at Tekkali to go to Vizianagaram for purchase of marriage clothes. When their car reached near Mahanthipeta junction in Dankada Mandal of Vizianagaram District, the car driver drove the vehicle in a rash and negligent manner at high speed by following a lorry bearing No.AP 37T 7889 and hit the lorry. As a result of which, the car ran into the nearby fields of Pydi Apparao and Sambasivarao died instantaneously and the other passengers sustained injuries. Apart from the case of the claimants in O.P.No.552 of 1999, three other cases were filed. The Tribunal recorded common evidence and disposed of all the cases by a common order dated 25.02.2005.

The Tribunal came to the conclusion that the accident occurred due to rash and negligent driving of the car bearing No.AP 31T 8088 by its driver.

With regard to the quantum of compensation, P.W.1 stated that her husband was running a school in the name and style "Blue Birds Public School" at Tekkali and he was the Principal and

Correspondent of the said school and was earning Rs.3,000/- p.m. The Tribunal did not believe the income claimed by the claimants and by placing reliance on II Schedule and Section 163-A of M.V. Act, 1988 fixed the notional income as Rs.15,000/- per annum. Since the deceased was aged about 35 years, the multiplier of 17 was applied after deducting 1/3rd from the notional income. Accordingly, it fixed the loss of estate as Rs.1,70,000/-. Apart from the said amount, an amount of Rs.8,000/- was awarded towards loss of consortium and Rs.2,000/- towards funeral expenses. In all, an amount of Rs.1,80,000/- was awarded by award dated 25.02.2005. Seeking enhancement of the said compensation, the present appeal is filed.

There is no dispute with regard to the age and accident. The only dispute is with regard to the income. The wife of the deceased filed documentary evidence under Exs.A.6 and A.7 showing that the deceased was the Principal of the school, but no proof of income was filed before the Tribunal. In the absence of any dispute of the deceased working as Principal of the school, the income of Rs.3,000/- can be taken as his monthly income. If the said amount is enhanced by 30%, as per the decision in **Rajesh v. Ranbir Singh**¹, it would come to Rs.3,900/- p.m. If 1/3rd thereof is deducted, the monthly income would come to Rs.2,600/- and the loss of estate can be calculated at Rs.5,30,400/- applying the same multiplier '17'. The loss of consortium shall be enhanced from Rs.8,000/- to Rs.50,000/-. Similarly, the funeral and transport expenses shall be enhanced from Rs.2,000/- to Rs.10,000/-. The 2nd claimant must have loss love and affection of his father. In view of the same, an amount of Rs.9,600/- is awarded. Thus, in all an amount of Rs.6,00,000/- is awarded as compensation in place of

Rs.1,80,000/- awarded by the Tribunal. The enhanced amount of compensation shall carry interest at 6% p.a. from the date of petition till the date of realization. The amount of Rs.4,00,000/- shall be released to the claimants, only after payment of deficit court fee, as the original claim is only for an amount of Rs.4,00,000/-.

The Appeal is accordingly allowed. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any, pending in the appeal shall stand dismissed.

(A.RAMALINGESWARA RAO, J)

16th December, 2015
cbs

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

-
-
-
-
-
-
-
-

M.A.C.M.A.No. 2126 of 2005

16th December, 2015

cbs

[\[1\]](#) 2013 ACJ 1403=(4)ALT-35(SC).