HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

MACMANo.1773 of 2005

Date: 19-11-2015

Between:

Munagacharla Chinna Venkata Subbaiah

And another

.... Appellants

AND

D. Peddanna and another

.... Respondents

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

MACMANo.1773 of 2005

ORDER:

This appeal is preferred by the claimants in O.P.No.437 of 2003 on the file of Motor Accident Claims Tribunal-cum-Principal District Judge, Nellore, seeking enhancement of compensation awarded to them by the award dated 23-08-2004.

The petitioners being parents of the deceased Mungacherla Chandra filed O.P. seeking compensation of Rs.3,00,000/- for the death of their son in a motor accident that occurred on 18-03-2003 while he was going as pillion rider on a cycle and was hit by a lorry bearing No.AP-9U-5479. He was aged about 19 years and was doing seasonal job in Tobacco Board.

The Tribunal, on evidence, held that the accident occurred due to rash and negligent driving of the driver of the lorry. With regard to the compensation, in the absence of any evidence about the income of the deceased, the notional income of Rs.100/- per day as agricultural labour was taken. The loss of dependency was calculated by applying the multiplier taking the age of the mother of the deceased and deducting 1/3rd from the income of the deceased. Accordingly, it arrived at a compensation of Rs.1,92,000/-, besides an amount of Rs.2,000/- towards funeral expenses and an amount of Rs.2,500/- towards loss of estate.

The learned counsel for the appellants by relying on **Munnalal Jain v. Vipim Kumar Sharma** submitted that the age of the deceased should have been taken into consideration and appropriate multiplier should have been applied. Even though there is no evidence with regard to income of the deceased, taking of Rs.100/- per day with appropriate multiplier is grossly inadequate. Since the deceased was 19 years old, the notional income should have been enhanced by 50% in view of the future prospects.

Admittedly, in the instant case, no evidence was filed to show the income of the deceased, but the Tribunal has taken the notional income as Rs.18,000/- p.a. The accident occurred in the year 2003 and even in the said year also, a labour would have get Rs.100/-per day, but if it was considered that he worked for 25 days in a month, he would have got Rs.2,500/- per month and the said amount of Rs.2,500/- was enhanced by 50% in view of future prospects of income. The deceased was aged about 19 years and appropriate multiplier as per **Sarla Verma v. Delhi Transport Corporation and another ((2009) 6 SCC 121)** is 18. Since the deceased was bachelor, 50% of the income should be deducted towards his personal expenses and if the said calculation is made, the loss of dependency would come to Rs.3,99,600/-. The funeral expenses should be enhanced from Rs.2,000/- to Rs.10,000/-. The petitioners would have suffered love and affection due to loss of their son and some amount should be awarded towards loss of love and affection. An amount of Rs.25,000/- is awarded for the same. In view of award of the amount towards loss of love and affection, there cannot be any amount towards loss of estate and an amount of Rs.4,35,000/- is awarded for the loss of son of the appellants in the motor accident that occurred on 18-03-2003.

Accordingly, the appeal is allowed and the award dated
28-03-2008 in MVOP.No.437 of 2003 on the file of Motor Accident Claims Tribunal-cum-Principal District Judge, Nellore is modified to the extent indicated above. The enhanced compensation amount shall carry the same rate of 9% p.a. from the date of petition till realisation. However, the enhanced amount should be paid only on payment of deficit court fee over and above the claimed amount. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

A. **RAMALINGESWARA RAO, J**

Date: 19-11-2015

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