

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

-
M.A.C.M.A.No.2014 of 2005

JUDGMENT:

The petitioners in O.P.No.419 of 2000 on the file of the Motor Accidents Claims Tribunal (I Additional District Judge) at Nizamabad (for short, Tribunal) are the appellants herein.

2. The petitioners filed the said petition claiming compensation of Rs.4,00,000/- for the death of their son, K.Sudhakar Reddy, in a motor accident that occurred on 16.06.1999 at about 4.00 am., when he and his friends were travelling in Tata Sumo jeep bearing No.AP15H 1919 from Jamikunta to Shiridi, and when the jeep reached the limits of Dharmaram Village, the driver of the jeep drove it in a rash and negligent manner, lost control over the jeep and dashed against a stationed lorry, which resulted to the death of K.Sudhakar Reddy.

3. The Tribunal framed the following issues.

- “1. Whether the accident was due to rash and negligent driving of the Tata Sumo jeep bearing No.AP15H 1919 by its driver?
2. Whether the petitioners are entitled for compensation. If so, to what amount and against which of the respondent?
3. To what relief?”

4. The father of the deceased, who was the first petitioner, was examined himself as P.W.1 and P.Ws.2 and 3 were also examined in support of their case. Exs.A.1 to A.5 were marked on their behalf. On behalf of the respondent, the second respondent was examined, the Office Assistant of the insurance company, as R.W.1 and marked Ex.P.1 insurance policy.

5. On the basis of the oral and documentary evidence, the Tribunal came to the conclusion that the accident occurred due to rash and

negligent driving of the driver of the Tata Sumo jeep bearing No.AP15H 1919. With regard to the compensation, the case of the petitioners was that the deceased was an agriculturist and was cultivating 10 to 12 acres of agricultural land at Oourall Madanamma of Ramanapalli Village and was earning Rs.1,20,000/- per annum, but the Tribunal fixed the income of the deceased at Rs.15,000/- per annum. After deducting 1/3rd thereof towards personal expenditure and applying the multiplier of 15 as the deceased was 20 years, fixed the compensation of Rs.1,50,000/-. It awarded an amount of Rs.10,000/- towards loss of estate and Rs.5,000/- towards transportation of dead body and funeral expenses. Thus, in all, an amount of Rs.1,65,000/- was awarded. However, since there was a violation of terms and conditions of policy, the Tribunal directed the second respondent insurance company to pay the amount and recover the same from the owner of the vehicle, by its award dated 28.02.2005.

6. The first petitioner marked Ex.A.5 lease deed and also adduced oral evidence of P.W.3 in support of the case of the petitioners that the deceased was an agriculturist. The Tribunal fixed the income of the deceased at Rs.15,000/- per annum. As per the judgment of the Supreme Court in **State of Haryana v. Jasbir Kaur**^[1], the notional monthly income can be fixed at Rs.3,000/- per month. In view of the latest judgment in **Rajesh v. Rajbir Singh**^[2], the said amount should be enhanced by 30% at least. If the same is enhanced, it would be Rs.3,900/- per month. In the instant case, the deceased was unmarried and 50% of the said income should be deducted. Hence, the notional income would come to Rs.1,950/- per month. Since the deceased was aged about 20 years at the time of accident, the appropriate multiplier is 18. If the same is applied, the loss of contribution to the family comes to Rs.4,21,200/- i.e., Rs.1,950 X 12 X 18. The amount of Rs.10,000/- towards loss of estate is retained, whereas the amount of Rs.5,000/- towards transportation of dead body and funeral expenses is enhanced

to Rs.10,000/-. Thus, the award of Rs.1,65,000/- awarded by the Tribunal is enhanced to Rs.4,61,200/- and the enhanced amount shall carry interest at 9% per annum from the date of petition till realization. The enhanced amount shall be paid to the petitioners on payment of deficit Court fee as the claimants paid Court fee claiming an amount of Rs.4,00,000/-. The enhanced amount of compensation shall be paid by the second respondent insurance company and can be recovered from the owner of the vehicle.

5. The appeal is, accordingly, allowed. Miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO, J

Date: 10.12.2015
TJMR

[\[1\]](#) 2003 (7) SCC 484

[\[2\]](#) (2013) 9 SCC 54