

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

M.A.C.M.A.No. 2098 of 2005

JUDGMENT:

The claimants in O.P.No.446 of 2003 on the file of the Motor Accident Claims Tribunal-cum-Principal District Judge, Karimnagar (for short 'the Tribunal') are the appellants herein. They filed the claim petition seeking a compensation of Rs.6,00,000/- for the death of the husband of the 1st claimant and father of the claimants 2 and 3 in a motor accident that occurred on 12.04.2003. The deceased was a pillion rider on a Suzuki motor cycle that was driven by his brother-in-law and the 3rd claimant followed them in an auto. They started from Arepally in order to purchase goats at Gangadhara Goats Market for the function of their relative. At about 11.00 a.m. when they reached near Rekurthy bridge, a lorry bearing No.AP 15V 2568 driven by its driver came from behind the auto, in which the 3rd claimant was traveling, overtook the auto in a rash and negligent manner and dashed the motor cycle. As a result of which, the driver of the motor cycle and the pillion rider fell down. The father of the claimants 2 and 3 died on the spot. He was working as a public health worker and drawing a salary of Rs.5,917/-. He was aged about 50 years.

A common counter affidavit was filed by the respondents 1 and 2.

The Tribunal framed the following issues:

"1) Whether the accident took place due to rash and negligent driving of the vehicle i.e., lorry bearing No.AP 15V 2568 by its driver?

2) Whether the petitioners are entitled to compensation, if so, to what amount and from whom?

3) To what relief?"

Before the Tribunal P.Ws.1 to 3 were examined and Exs.A.1 to A.9 were marked on behalf of the petitioners. On behalf of the respondents, no oral evidence was adduced, but the insurance policy was marked as Ex.B.1.

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 lorry by its driver.

With regard to the amount of compensation to which the claimants were entitled, the age of the deceased was taken as 50 years and the net income of the salary was taken as Rs.5,782/-. The Tribunal observed that the deceased was attending his work by traveling from Arepally village and, accordingly, deducted 50% of the income towards personal expenses. It applied multiplier of 10 and arrived at a compensation of Rs.3,46,920/-. Besides the said amount, an amount of Rs.10,000/- was awarded towards loss of consortium and another amount of Rs.5,000/- towards loss of love and affection to the claimants 2 and 3. In all, an amount of Rs.3,57,000/- was awarded, by award dated 06.06.2005. Seeking enhancement of the said amount of compensation, the present appeal is filed.

There is no dispute with regard to the accident and the employment of the deceased as a public health worker. Ex.A.7 salary certificate shows that the gross salary of the deceased was Rs.5,917/-. The Tribunal erred in taking the net salary and deducting 50% of the same on the ground that the deceased was attending his work by traveling from Arepally village. If the salary of

Rs.5,900/- is taken and $\frac{1}{3}^{\text{rd}}$ is deducted therefrom, it would come to Rs.3,934/-. Since the deceased is aged about 50 years, the future prospects in the income can be arrived at by enhancing the income at 15%. Thus, the income that has to be taken for the purpose of compensation is Rs.4,524/- p.m. If multiplier "10" is applied, the total compensation comes to Rs.5,42,880/-. The loss of consortium should be enhanced from Rs.10,000/- to Rs.50,000/- as per **Rajesh v. Ranbir Singh**¹. Similarly, the loss of love and affection to the claimants 2 and 3 should be enhanced from Rs.5,000/- to Rs.20,000/-. No amount was awarded towards funeral expenses and an amount of Rs.10,000/- can be awarded for the same. Thus, the total compensation amount would come to Rs.6,22,880/-.

The Appeal is accordingly allowed by modifying the award passed by the Tribunal from Rs.3,67,000/- to Rs.6,22,880/-. The enhanced amount of compensation shall carry interest at 9% p.a. from the date of petition till the date of realization. The petitioners shall pay the deficit court fee over and above the amount claimed by the claimants.

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)

15th December, 2015
cbs

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