THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

M.A.C.M.A.No.1734 of 2005

JUDGMENT:

This appeal is preferred by the claimants seeking enhancement of compensation for the death of one Syed Kareem in a motor accident that occurred on 09.01.1998. The appellants herein filed O.P.No.341 of 1998 on the file of the Motor Accident Claims Tribunal – cum – I Additional District Judge at Mahabubnagar, claiming an amount of Rs.4,00,000/- for his death.

The claim petition was filed on the allegation that when the deceased was going in a lorry bearing No.API-271 as a labourer, when the lorry was going towards Nacharam Village from Alliikhanpally Village of Kosgi Mandal on PWD road, the driver drove the lorry in a rash and negligent manner as a result of which the deceased fell down from the lorry, sustained grievous injuries and died. The defense taken by the insurance company was that the deceased was an unauthorized passenger in a goods vehicle. The Tribunal held that the accident occurred due to rash and negligent driving of the lorry by its driver. The Tribunal recorded a finding that the deceased traveled in the lorry as an unauthorized passenger and the insurance company was not liable for payment of compensation. It was noticed that the deceased was aged about 39 years.

The monthly income of the deceased was taken as Rs.1,500/- and after deducting 1/3rd of the same towards personal expenses and applying the multiplier of 15, an amount of Rs.1,80,000/- was awarded towards compensation apart from an amount of Rs.5,000/- towards consortium, Rs.2,000/- towards funeral expenses and Rs.2,000/- towards loss of estate. In all, the Tribunal awarded an amount of Rs.1,89,000/- with 9% interest per annum from the date of petition till payment with proportionate costs.

After filing this appeal, the law on payment of compensation had undergone change and since the deceased was having four children, the Tribunal should not have deducted 1/3rd of income towards the personal expenses. Instead, it should have deducted only 1/4th of the income. It is also settled by the decisions of the Supreme Court that the income of the deceased would be getting enhanced from time to time and in the case of persons from unorganized sector, there would be 30% enhancement in their income. The amounts of consortium and funeral expenses also need revision in view of the later decisions of the Supreme Court.

In the circumstances, taking the monthly income of the deceased as Rs.1,500/- and deducting 1/4th thereof, the monthly income would come to Rs.1,125/-. If 30% enhancement is granted thereon, it would be Rs.1,465/- (rounded of). The annual income thereon would be Rs.17,580/-. If multiplier of 15 is applied to the same, the compensation would be Rs.2,63,700/-. The loss of consortium should be enhanced to Rs.15,000/- and the funeral expenses should be enhanced to Rs.5,000/-. Since the children of the deceased lost their father, there would be loss of love and affection, which cannot be estimated, but an amount of Rs.10,000/- can be awarded for the same. If the total amount is rounded of, it would come to Rs.2,95,000/-. Thus, the compensation awarded is as follows:

Loss of income - Rs.2,63,700.00

Consortium - Rs. 15,000.00

Funeral expenses - Rs. 5,000.00

Loss of love and affection - Rs. 10,000.00

Rs.2,93,700.00

Rounded of Total - **Rs.2,95,000.00**

The appeal is, accordingly, allowed and the enhanced amount shall carry interest at 9% per annum from the date of the petition till the date of realization. The claim against the second respondent – insurance company, is dismissed upholding the award passed by the Tribunal with regard to the liability. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

13.11.2015

vs

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