

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

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M.A.C.M.A .No.1040 OF 2005

AND

M.A.C.M.A. No.1521 OF 2005

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COMMON JUDGMENT:

Both these appeals arisen out of the award in O.P. No.783 of 2002 dated 01.03.2005 passed by the Motor Accidents Claims Tribunal-cum-District Judge at Karimnagar. MACMA No.1014 of 2005 was filed by the claimants seeking enhancement of compensation, whereas MACMA No.1521 of 2005 was filed by the insurance company disowning its liability.

02. The claimants, who are the legal heirs of the deceased -Anumula Yellaiah, filed the claim petition claiming compensation of Rs.10,00,000/- for his death in a motor accident that occurred on 19.07.2002. When he was going to APSRTC bus depot Vemulawada to attend his duty, and proceeding on his motor cycle at about 1.45 pm. and reached near Yellamma Temple in the Shivar of Thimmapur Village, an Eicher Van bearing No.AP-1-T-3686 came from opposite direction at high speed and in a rash and negligent manner dashed against the motor cycle due to which he sustained fatal injuries and died. The Tribunal held that the accident occurred due to rash and negligent driving of the vehicle bearing No. AP-1-T-3686 by its driver, and awarded an amount of Rs.3,94,000/- with interest @ 9% from the date of petition till realisation.

03. Though the appeal was filed by the insurance company (challenging the quantum of compensation), in view of subsequent decision of the High Court, the gross salary has to be taken into consideration and hence the appeal is liable to be dismissed and is accordingly dismissed.

04. However, with regard to the appeal preferred by the claimants seeking

enhancement of the compensation, it is to be noticed that the Tribunal took an amount of Rs.3,500/- per month towards income by taking into consideration deductions from the salary of the deceased, who was working as a driver in the APSRTC, applied multiplier '13', arrived an amount of Rs.3,64,000/- and further held that the first petitioner was entitled Rs.15,000/- towards loss of consortium and the other petitioners are entitled an amount of Rs.15,000/- towards love and affection . Thus in all an amount of Rs.3,94,000/- was awarded by order dated 01.03.2005.

05. Learned counsel for the claimants submitted that as per the latest decision of the Apex Court in **Sarla Verma (smt) and Others vs. Delhi Transport Corporation and Another**, the gross salary of the deceased has to be taken into consideration apart from applying multiplier '15' for persons aged 36 to 40 years. He submitted that the Tribunal erred grossly in these respects.

06. He further submitted that as per the decision of the Apex Court in **Rajesh Vs. Rajbir Singh and others**, loss of consortium should be Rs.1,00,000/- and the income should be enhanced to 50%, since he was aged below 40 years. He also submitted that as per the decision of the Apex Court in **Rajesh's case** referred supra, the funeral expenses should be awarded to the tune of Rs.25,000/-, but no amount was awarded by the Tribunal.

07. Learned Standing Counsel for insurance company opposed the said contention stating that in view of the subsequent decision of the Apex Court reported in **Puttamma Vs. K.L.Naraynan Reddy & Others**, the loss of consortium should be Rs.50,000/-, but not Rs.1,00,000/- as claimed by the claimants.

08. In view of the above, the appropriate multiplier in the instant case is '15' and the salary has to be taken into consideration is around Rs.8,000/-. Since the dependents are nearly 7, 1/5th amount i.e. Rs.1600/- has to be deducted from the earnings, which comes to Rs.6,400/-. If the relevant multiplier '15' is applied to the same, the total amount comes to Rs.11,52,000/-. The said

amount is towards compensation and an amount of Rs.50,000/- shall be awarded towards loss of consortium to the first claimant. The others petitioners are also entitled to Rs.75,000/- amount towards loss of affection. Apart from the above decision, an amount of Rs.23,000/- is awarded towards funeral expenses. Thus, in all the claimants are entitled to Rs.13,00,000/- towards compensation for the death of Anumula Yellaiah and the enhanced amount shall carry interest @ 9% interest from the date of petition till realisation. The enhanced amount shall be paid to the claimants on payment of deficit court fee as the claimants paid the court claiming an amount of Rs.10,00,000/-. The appeal is accordingly allowed.

09. In the result, MACMA No.1040 of 2005 is allowed and the MACMA No.1521 of 2005 is dismissed. No costs.

10. Miscellaneous petitions, if any, pending in these appeals shall stand closed.

A. RAMALINGESWARA RAO, J

12.11.2015

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