

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

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M.A.C.M.A.No.2016 of 2005

Between:

T.Ramakrishna and others.

....Appellants

and

Syed Ibrahim and another.

....Respondents

JUDGMENT PRONOUNCED ON : 08.12.2015

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO :

1. Whether Reporters of Local newspapers : Yes
may be allowed to see the Judgments?

2. Whether the copies of judgment may be : No
Marked to Law Reporters/Journals?

3. Whether Their Ladyship/Lordship wish to : No

see the fair copy of the Judgment?

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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M.A.C.M.A.No.2016 of 2005

JUDGMENT:

The claimants in O.P.No.563 of 2004 on the file of the Motor Accident Claims Tribunal, Hyderabad, filed the present appeal seeking enhancement of compensation. They filed the petition seeking compensation of Rs.6,00,000/- for the death of the son of claimant Nos.1 and 2 and brother of the third claimant.

It was alleged that on 28.10.2003 at about 10 pm the deceased – T.Venkat Raju, and his cousin were proceeding on Hero Honda motor cycle bearing No.AP 28 AE 5444 from Katedan to Chandrayanagutta and when they reached near Weaker Section Colony, Mailardevpally, a lorry bearing No.ATT 138 came in the opposite direction and dashed the motor cycle, due to which the deceased died on the spot and the pillion rider sustained grievous injuries. The deceased was aged about 25 years on the date of the accident and was working as a senior tailor at Sri Sai Garments Factory, Katedan. He was drawing a salary of Rs.4,200/- per month.

The Tribunal framed the following issues:

“1. Whether the accident resulting in death of T.Venkata Raju occurred on 28.10.2003 due to rash and negligent driving of the driver of the lorry bearing No.ATT 138?

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

3. To what relief?”

Before the Tribunal, the claimants examined P.Ws.1 to 3 and marked Exs.A1 to A8. Ex.B1 – insurance policy, was also marked.

The Tribunal, on evidence, held that the accident occurred due to rash and negligent driving of the driver of the lorry bearing No.ATT 138. The employer of the deceased was examined as P.W.3 in order to prove the profession of the deceased and his earnings. Ex.A7 – salary certificate, was produced. Since no salary register was produced, the Tribunal did not accept the income claimed by the claimants and took the monthly income of Rs.2,500/- and deducted 1/3rd thereof for his personal expenses. The deceased was unmarried on the date of the accident. Taking the average age of the parents, the loss of contribution to the family was arrived at Rs.2,60,000/- by applying multiplier of 13. An amount of Rs.5,000/- was awarded towards loss of estate. Thus, in all, an amount of Rs.2,65,000/- was awarded by award dated 18.05.2005. Seeking enhancement of the said amount, the present appeal is filed.

It is not in dispute that the deceased was working as a senior tailor in a garments factory. Though no evidence was produced with regard to the income, the Tribunal took the notional income of Rs.2,500/- per month. The said amount should have been enhanced by 50% in view of the skilled job that is undertaken by the deceased. So, the monthly income would be Rs.3,750/-. But, the deceased was unmarried at that time. So, the contribution to the family would be 50%.

In the circumstances, the notional income would come to Rs.1,875/- per month. The appropriate multiplier that is applicable in the case is the age of the deceased instead of average age of the parents. The deceased was aged about 25 years and 18 should be the appropriate multiplier. If the same is applied, the loss of contribution to the family comes to Rs.4,05,000/- i.e., Rs.1,875 X 12 X 18. The claimants are the parents and brother of the deceased. The loss of estate is, therefore, enhanced from Rs.5,000/- to Rs.20,000/-. Thus, the award of Rs.2,65,000/- awarded by the Tribunal is enhanced to Rs.4,25,000/- and the

enhanced amount shall carry interest at 9% per annum from the date of petition till realization.

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

(A.RAMALINGESWARA RAO, J)

08.12.2015

vs

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