

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.1997 of 2005

Between:

Smt.Munnerunnisa Begum and others.

....Appellants

and

S.S.Patel 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.1997 of 2005

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JUDGMENT:

The legal representatives of the deceased filed O.P.No.1420 of 1999 on the file of the Motor Accident Claims Tribunal, Ranga Reddy District, claiming a compensation of Rs.4,00,000/- for the death of one Syed Shabbir in an accident that occurred on 19.06.1999 at about 12.30 hours near Yellampet Village in the factory premises while he was taking rest under the lorry bearing No.GJ 13 T 6727.

The first appellant is the wife and appellant Nos.2 to 5 are the children of the deceased. It was alleged that while the deceased was taking rest in the factory premises near Yellampet under the lorry bearing No.GJ 13 T 6727, the cleaner of the lorry started the lorry and took reverse due to which the deceased died on the spot. He was aged about 45 to 50 years on the date of the accident. He was working as a lorry driver. The Tribunal framed the following issues:

“(i) Whether the accident occurred on 19.06.99 near Yellampet village under P.S Medchal, due to rash and negligent driving of the driver of the lorry B.No.GJ 13 T 6727 only?

(ii) Whether the petitioners are entitled to claim any compensation, if so how much?

(iii) To what relief?

An additional issue was framed on 20.4.2004:

Whether the accident lorry B.No.GJ 13 T 6727 was being

driven by the cleaner of the said lorry, without having any licence at the time of the accident and that because there was violation of the terms and conditions of the policy, the 2nd respondent Insurance Company is not liable to pay compensation to the petitioners as contended by the 2nd respondent?"

With regard to the first issue, the Tribunal, on evidence, held that the accident occurred due to rash and negligent driving of the lorry by its cleaner.

With regard to the compensation, the Tribunal took into consideration that the deceased was earning Rs.60/- per day and applied the multiplier of 13 after deducting 1/3rd towards personal expenses and awarded an amount of Rs.1,87,200/-. An amount of Rs.5,000/- was awarded towards loss of consortium. Rs.2,000/- was awarded towards funeral expenses and Rs.5,800/- towards loss of estate. Thus, in all, an amount of Rs.2,00,000/- was awarded by award dated 30.06.2004. Seeking enhancement of the said compensation, the present appeal is filed.

Even taking the income of Rs.1,800/- per month, in view of the latest judgment of the Supreme Court in **Rajesh v. Rajbir Singh**, there should be 30% enhancement in the compensation in view of the future increase. If the same is taken into consideration, the income would be Rs.2,340/- per month. The Tribunal has deducted 1/3rd towards personal expenses. When the family members are five, it should have taken 1/4th towards personal expenses. If that is taken into consideration, the monthly income would be Rs.1,755/- per month. If the appropriate multiplier 13 is applied, the total compensation comes to Rs.2,73,780/-. Loss of consortium should be enhanced to Rs.50,000/- from Rs.5,000/- awarded by the Tribunal. The funeral expenses also need to be enhanced from Rs.2,000/- to Rs.10,000/-. The amount towards loss of estate is also enhanced from Rs.5,800/- to Rs.20,000/-. The appellants 2 to 5 must have lost love and affection of their father, which cannot be quantified. But, an amount of Rs.19,200/- can be awarded under that head. In all, the enhancement of compensation is as follows:

Heads Award of Tribunal Enhancement

Rs. Rs.

Loss of income 1,87,200.00 2,73,780.00

Loss of consortium 5,000.00 50,000.00

Funeral expenses 2,000.00 10,000.00

Loss of estate 5,800.00 20,000.00

Love and affection - 19,200.00

Total 2,00,000.00 3,72,980.00

Thus, an amount of Rs.3,72,980/- can be awarded as just compensation for the death of the sole breadwinner of the family in the motor accident that occurred on 19.06.1999.

The appeal is, accordingly, allowed enhancing the compensation from Rs.2,00,000/- to Rs.3,72,980/-. The enhanced amount shall carry the same rate of interest at 9% per annum from the date of petition till the date of realization. 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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