

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.1885 of 2005

Between:

Garapati Ratna Kumari.

....Appellant

and

Ellipalli Simhachalam and others.

....Respondents

JUDGMENT PRONOUNCED ON : 30.11.2015

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.1885 of 2005

JUDGMENT:

This is an appeal filed by the claimant in M.O.P.No.1352 of 2002 on the file of the III Additional District Judge, Visakhapatnam, seeking enhancement of the compensation for the death of her husband, who died in a motor accident that occurred on 27.11.2001 at 11.30 hours at Nagarapalem junction.

The claimant's husband – Garapati Ganapati, was proceeding on his Hero Honda motor cycle bearing registration No.AP 31 B 1529 on 27.11.2001 from Tarulawada to Bheemili and when he reached Nagarapalem junction, an auto bearing registration No.AP 31 W 2286 driven by the first respondent came in a rash and negligent manner and hit his motor cycle, as a result of which, the deceased fell on the road and sustained fatal injuries. He was taken to K.G.Hospital, Visakhapatnam, for treatment and while undergoing treatment he succumbed to the injuries on the same day at 7 pm. The claimant claimed compensation of Rs.3,00,000/- on account of her husband's death. Subsequently, the parents of the deceased were brought on record as per the orders in I.A.No.652 of 2003, dated 06.10.2003.

The Tribunal came to the conclusion that the accident occurred due to rash and negligent driving of the auto by its driver, which resulted in the death of the claimant's husband.

Though it was submitted before the Tribunal that the deceased was a retired employee of Indian Overseas Bank and was earning Rs.4,000/- per month and was aged about 45 years, the income of the deceased was not believed by the Tribunal, as no evidence was produced. The Tribunal took the annual income of the deceased at Rs.15,000/- and applied the multiplier of 15. The annual loss of

income and loss of dependency was arrived at Rs.1,50,000/-. An amount of Rs.15,000/- was awarded towards loss of consortium. Rs.20,000/- was awarded for loss of estate and Rs.2,000/- towards funeral expenses. Thus, in all, an amount of Rs.1,87,000/- was awarded by award dated 18.10.2004. The Tribunal awarded interest at 9% per annum from the date of the petition till the date of deposit.

The age of the deceased being 45 years is not in dispute. The only dispute is with regard to the income. In the year 2001 it can be assumed that the deceased must be earning Rs.3,000/- per month and in view of three dependents, if 1/4th of the said amount is deducted, the income comes to Rs.2,250/- per month. If the multiplier 15 is applied to the said monthly income for arriving at the loss of dependency, the amount comes to Rs.4,05,000/-. The loss of consortium of Rs.15,000/- should be enhanced to Rs.50,000/-. The loss of estate at Rs.20,000/- need not be disturbed. The funeral expenses should be enhanced from Rs.2,000/- to Rs.10,000/-.

Thus, the total compensation awarded under the following heads is as follows:

- 1. Loss of dependency - Rs.4,05,000.00
- 2. Loss of consortium - Rs. 50,000.00
- 3. Loss of estate - Rs. 20,000.00
- 4. Funeral expenses - Rs. 10,000.00

Total compensation - Rs.4,85,000.00

Even though the claimant claimed only an amount of Rs.3,00,000/-, the award can be passed for an amount of Rs.4,85,000/- under the above heads in view of the Larger Bench decision of this Court in **Adam Indur Muttemma v. Rathod Reddia** and the decision of the Supreme Court in **Rajesh v. Rajbir Singh**.

The enhanced amount shall carry interest at 9% per annum from the date

of the petition till realization, and the amount above Rs.3,00,000/- shall be released to the claimant only after payment of the deficit Court fee.

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)

30.11.2015

vs

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