

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.2020 of 2005

Between:

Kasha Venkanna and another.

....Appellants

and

A.Ramesh 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.2020 of 2005

JUDGMENT:

The claimants in O.P.No.20 of 2004 on the file of the Motor Accident Claims Tribunal, Hyderabad, filed the present appeal seeking enhancement of compensation. They filed the said petition claiming compensation of Rs.3,50,000/- for the death of their son.

It was alleged that on 07.10.2003 the deceased – Kasha Srikanth, was proceeding with Mamidipally Laxman on Suzuki motor cycle bearing No.AP 15 J 7167 from Dharmapuri towards Thummanala and the deceased was the pillion rider. At about 8.00 pm when they reached near the new building of Sri Vinod Rao of Dharmapuri, one van bearing No.AP 15 U 4678 which was in front of their motor cycle was going in a rash and negligent manner and the driver of the van applied sudden breaks, due to which the motor cycle hit the van from backside and the deceased sustained severe injuries to his eyebrows, left cheek, mouth, right waist and died on the spot. The rider of the motor cycle also sustained grievous injuries and died while he was being shifted to hospital. The deceased was a goldsmith by profession.

The Tribunal framed the following issues:

“1. Whether the accident resulting in death of Kasha Srikanth occurred due to rash and negligent driving of the driver of Eicher Van bearing No.AP 15 U 4676?

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 van bearing No.AP 15 U 4676. 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 valid document was filed by P.W.3 to show that he was running such business, the Tribunal did not accept the income claimed by the claimants and took the notional income of the deceased as Rs.15,000/- per annum and deducted 1/3rd thereof for his personal expenses. The deceased was aged 19 years and 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.1,60,000/- by applying multiplier of 16. An amount of Rs.2,500/- was awarded towards loss of estate and Rs.2,500/- towards funeral expenses. Thus, in all, an amount of Rs.1,65,000/- was awarded by award dated 13.07.2005. Seeking enhancement of the said amount, the present appeal is filed.

It is not in dispute that the deceased was working as a goldsmith. Though no evidence was produced with regard to the income, the Tribunal took the notional income of Rs.15,000/- per annum.

The Tribunal erred in taking the notional income of the deceased as Rs.15,000/- per annum. Instead, it should have taken Rs.2,500/- per month and 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 19 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 of the deceased. The loss of estate is, therefore, enhanced from Rs.2,500/- to Rs.20,000/-. The amount of Rs.2,500/- awarded by the Tribunal towards funeral expenses is also enhanced to Rs.10,000/-. Thus, the award of Rs.1,65,000/- awarded by the Tribunal is enhanced to Rs.4,35,000/- and the enhanced amount shall carry interest at 9% per annum from the date of petition till realization. The enhanced amount shall be paid to the claimants on payment of deficit Court fee as the claimants paid Court fee claiming an amount of Rs.3,50,000/-.

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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