THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

M.A.C.M.A.No.545 of 2005

JUDGMENT:

The claimants are the appellants. They filed M.V.O.P.No.362 of 2003 on the file of the Motor Accident Claims Tribunal – cum – District Judge, Cuddapah, claiming compensation of Rs.5,00,000/- for the death of the husband of the first appellant and father of appellants 2 to 6.

The case of the appellants was that on 28.04.2003 when the deceased was going on his bicycle at about 4.00 pm and when he reached Bellari road in Cuddapah, the tractor and trailor bearing registration numbers AP 04 T 5696 and 5697 belonging to the first respondent and insured with the second respondent came in a high speed in a rash and negligent manner, ran over the deceased, and he died while taking treatment. The deceased was building lorry bodies along with his partner and was earning Rs.10,000/- per month. The Tribunal, on evidence, came to the conclusion that the accident occurred due to rash and negligent driving of the driver of the tractor and trailor.

With regard to the compensation, the Tribunal awarded an amount of Rs.1,32,000/- towards loss of income by taking monthly income of the deceased at Rs.1,500/- and applying the multiplier of 11 to the age of the deceased, which was of 45 years, after deducting 1/3rd of the income. An amount of Rs.15,000/- was awarded towards loss of consortium apart from awarding an amount of Rs.15,000/- towards loss of estate, an amount of Rs.1,000/- towards funeral expenses and Rs.1,000/- towards transportation charges. In all, an amount of Rs.1,64,000/- together with interest at 9% per annum from the date of petition till realization was awarded by award dated 23.11.2004.

Learned Counsel for the appellants submits that in view of the ratio laid down in

Rajesh v. Rajbir Singh, **Anjani Singh v. Salauddin** and **Santosh Devi v. National Insurance Company Limited**, the appellants are entitled for higher compensation.

Out of the cases cited by the learned Counsel for the appellants, it appears that the facts in **Santosh Devi**'s case (supra) are similar to the facts in the present case. There also the deceased was aged about 45 years and the income was taken at Rs.1,500/- per month. Keeping in view the ratio laid down therein and applying the same to the facts of the present case, the appropriate multiplier that is applicable to the instant case is 14 and, in view of the number of persons of the family, 1/10th of the income should be deducted towards personal expenses instead of 1/3rd deducted by the Tribunal. Accordingly, the loss of income is calculated by taking the multiplier of 14 and applying the same to the monthly income of Rs.1,500/- with 30% enhancement in respect of future prospects and deducting 1/10th thereof, which comes to Rs.2,94,840/- (Rs.1,500/- + 30% of Rs.1,500/- = Rs.1,950/- less 1/10th towards personal expenses = Rs.1,755/-. Rs.1,755 X 12 X 14 = Rs.2,94,840.00). The funeral expenses should be Rs.10,000/- and the transportation charges should be Rs.5,000/- There cannot be any enhancement on the amount awarded by the Tribunal in the case of loss of consortium and loss of estate.

The appeal is, accordingly, allowed awarding an amount of Rs.3,39,840/- as follows in the place of the award of Rs.1,64,000/- awarded by the Tribunal.

Head	Award of Tribunal	Enhancement
Loss of income =	Rs.1,32,000.00	Rs.2,94,840.00
Funeral expenses =	Rs. 1,000.00	Rs. 10,000.00
Transportation charges =	Rs. 1,000.00	Rs. 5,000.00
Consortium =	Rs. 15,000.00	Rs. 15,000.00
Loss of Estate =	Rs. 15,000.00	Rs. 15,000.00

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Total amount of compensation = **Rs.1,64,000.00 Rs.3,39,840.00**

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(A.RAMALINGESWARA RAO, J)

16.11.2015

vs

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