

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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M.A.C.M.A. No.2050 of 2005
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JUDGMENT:

The claimants in O.P. No.1758/2002 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-I Additional District Judge, Nizamabad (for short, 'the Tribunal'), are the appellants herein. They have filed the said O.P. seeking compensation of Rs.10,00,000/- for the death of one Algot Laxmi, who is the wife of petitioner No.1 and mother of petitioners 2 and 3.

The case of the petitioners was that on 19.10.2002 at about 6.30 P.M. when the deceased Algot Laxmi was standing on the side of the road in front of Radha Murali Beedi Company, Kissangar Village on NH-7 and at that time a jeep bearing registration No.AP-1-T-5625, driven by its driver, came in high speed and dashed the deceased. In the said accident, the deceased received head injury and multiple fractures, she was shifted to the Government Hospital, Armour, and on the way to the Hospital, she died. It was stated that she was an agriculturist and was earning Rs.15,000/- per month.

The Tribunal framed the following issues for consideration:

- 1) Whether the accident was due to rash and negligent driving of the Jeep bearing No.AP-1-T-5625 by its driver?
- 2) Whether the petitioners are entitled for compensation. If so, to what amount and against which of the respondent?
- 3) To what relief?

The husband of deceased was examined himself as PW1 and also examined PWs 2 and 3 in support of the case of petitioners. They marked exhibits A1 to A5. Ex.B.1, copy of insurance policy, was marked with consent.

The Tribunal, on the basis of oral and documentary evidence,

held that the accident occurred due to rash and negligent driving of the driver of the offending Jeep, resulting in death of the said Algot Laxmi.

Petitioner No.1 is the husband and the petitioners 2 and 3 are minor children of the deceased. The Tribunal disbelieved the plea of earning Rs.15,000/- per month from agriculture and cloth business by the deceased. However, it awarded an amount of Rs.2,00,000/- towards loss of services of the deceased to the petitioners with her love and affection. An amount of Rs.15,000/- was awarded towards Consortium to first petitioner, Rs.10,000/- towards loss of estate, and Rs.5,000/- towards expenses for transportation of dead body and funeral. Thus, in all an amount of Rs.2,30,000/- was awarded by the Tribunal, by order dated 17.03.2005.

The present appeal is filed seeking enhancement of the said compensation.

Since this is a case of death, the Tribunal should have applied the multiplier method even when the deceased was not an earning member of the family. As per Ex.A.2-Post Mortem examination report, the deceased was aged about 20 to 25 years. Even in the case of agriculturists also, the Supreme Court in **State of Haryana Vs. Jasbir Kaur**^[1] took monthly income as Rs.3,000/- in a case of death that occurred in 1999.

In the present case, the death occurred on 19.10.2002, and even if the deceased is not an agriculturist the income for the services rendered by the housewife should have been taken into consideration. Hence, this Court is inclined to take Rs.3,000/- per month as the nominal income and there are three dependants on her. The appropriate multiplier that is applicable to her is '18' and if 1/3rd of the income is deducted, the income would come to Rs.2,000/-. By applying the multiplier '18', the loss of services to the family would be

Rs.4,32,000/-. The amount towards Consortium to first petitioner should be enhanced from Rs.15,000/- to Rs.50,000/-. and the amount of Rs.5,000/- awarded towards expenses for transportation of dead body and funeral also needs enhancement to Rs.10,000/-. An amount of Rs.10,000/- towards loss of estate is not disturbed. Thus, in all the petitioners are entitled for an amount of Rs.5,02,000/- (Rupees five lacs and two thousand only) for the death of wife of first petitioner and mother of petitioners 2 and 3. The enhanced amount shall carry interest @ 9% per annum from the date of petition till the date of realisation.

Accordingly, this Appeal is allowed. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this appeal shall stand closed.

A.RAMALINGESWARA RAO, J

10.12.2015
MVA

[\[1\]](#) 2003 (7) SCC 484