

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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M.A.C.M.A.No.1759 of 2005

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JUDGMENT:

This appeal is preferred by the claimants, who filed O.P.No.967 of 2001, seeking enhancement of compensation awarded by the learned IV Additional District & Sessions Judge, Fast Track Court, Ranga Reddy District at L.B.Nagar, by award dated 01.09.2004.

The claimants filed the petition seeking compensation of Rs.2,00,000/- for the death of their son, who was aged about nine years, in a motor accident that occurred on 29.07.2001. On that day, when the deceased was standing at the extreme left side of the road at Kukunoorpally Village near Rajesham Kirana shop on Rajiv Rahadari, a lorry bearing No.AHH 3039 came in a rash and negligent manner in a high speed on the wrong side of the road and hit him resulting in his death on the spot. At the time of the accident, the deceased was studying 3rd class. The Tribunal, on evidence, felt that the accident occurred due to rash and negligent driving of the driver of the lorry bearing No.AHH 3039.

Before the Tribunal, P.W.1 was examined and she is the mother of the deceased. An eyewitness of the accident was examined as P.W.2. The deceased was aged about nine years and with regard to the studies, no document was filed. The postmortem report – Ex.A5, discloses the age of the deceased as seven years. The Tribunal awarded an amount of Rs.50,000/- as compensation, Rs.2,000/- towards funeral expenses and Rs.7,000/- towards loss of income. In all, an amount of Rs.59,000/- was awarded by award dated 01.09.2004.

Learned Counsel for the appellants, by relying on the judgment of the Supreme Court in **V.Mekala v. M.Malathi**^[1], submits that the

notional income of the deceased should have been taken into consideration and the compensation should have been calculated. He also relied on a Larger Bench decision of this Court in **Adam Indur Muttemma v. Rathod Reddia**^[2], which held that the Tribunals can award compensation more than the amount claimed.

In view of the above decisions, it is necessary for this Court to recalculate the amount of compensation that can be paid as a just compensation to the claimants. The amount of income cannot be calculated as the deceased was a minor and what can be taken is only a notional income.

The claimants are labourers. It is not known whether the deceased was a student or not.

In the circumstances, the monthly notional income can be taken as Rs.3,000/- and with 30% enhancement in view of future raise, the annual income would come to Rs.46,800/- (Rs.3,000/- + 900/- (3000x30%) = Rs.3,900/-; Rs.3,900/- X 12 = Rs.46,800/-). If multiplier of 15 is applied, the amount would come to Rs.7,02,000/- (Rs.46,800/- X 15). If 50% of the same is deducted towards personal expenses, as the deceased was a minor, the amount of compensation would come to Rs.3,51,000/-. The funeral expenses should have been awarded @ Rs.10,000/- instead of Rs.2,000/-. The loss of income can be enhanced to Rs.9,000/-. The total amount of just compensation would be Rs.3,70,000/-, which is as follows:

Compensation	-	Rs.3,51,000.00
Funeral expenses		Rs. 10,000.00
Loss of income	-	Rs. 9,000.00

Total	-	Rs.3,70,000.00

The appeal is, accordingly, allowed modifying the award of the Tribunal by awarding an amount of Rs.3,70,000/- in the place of

Rs.59,000/- awarded, with interest at 9% per annum from the date of the petition till the date of realization. The enhanced amount shall carry interest at that rate. But, the claimants shall pay the deficit Court fee as they have claimed only Rs.2,00,000/- in the petition. The miscellaneous petitions pending in this appeal, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

18.11.2015
vs

[\[1\]](#) 2014 (5) ALD 42 (SC)

[\[2\]](#) 2015 (4) ALT 775 (LB)