

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

M.A.C.M.A.NO.1798 OF 2005

JUDGMENT:

This appeal is preferred by the appellants-petitioners against the order, dated 12-04-2004 in M.V.O.P.No.127 of 2002 on the file of the XX Additional Chief Judge-cum-Motor Accident Claims Tribunal, Secunderabad (for short 'the Tribunal') seeking enhancement of compensation.

2. The appellants herein are the petitioners, whereas the respondents herein are the respondents before the Tribunal.

3. For the sake of convenience, the parties herein after will be referred to as they were arrayed before the Tribunal.

4. 1st petitioner is the daughter, 2nd petitioner is the father and the 3rd petitioner is the brother of one T.Babu (hereinafter referred to 'as the deceased'). The petitioners filed the above O.P. claiming compensation of Rs.4,00,000/- stating that the deceased was running Padma Dry Cleaning and Darning Centre and was earning Rs.4,000/- per month. On 22-05-2002 at about 3.00 P.M., while the deceased was proceeding on his Hero Honda Motor Cycle bearing No. AEU 4447 along with his wife from Kukanoorpally towards Siddipet on the extreme left side of the road and when they reached Thimmareddypally village outskirts, one DCM van bearing No. AP 23 T 7860 came in a rash and negligent manner with high speed on wrong side of the road and dashed to the Hero Honda Motor Cycle from opposite direction, as a result of which, the deceased received multiple injuries and died on the spot. Motor Cycle was completely damaged causing loss of Rs.20,000/-. Hence, the claim petition.

5. The respondents filed counter denying the averments in the petition and involvement of the DCM van in the accident. It is stated that the petitioners should prove that the DCM van was driven rashly and negligently with high speed and as a result of which, the deceased died due to injuries sustained in the accident. The amount claimed by the petitioners is excessive. Hence, the

respondents pray to dismiss the claim petition.

6. Basing on the above pleadings, the following issues were settled for trial:

1. Whether the accident has taken place due to rash and negligent driving of the DCM van bearing No. AP 23 T 7860 by its driver?

2. What is the just amount that can be awarded as compensation and against whom?

3. To what relief?

7. On behalf of the petitioners, P.Ws. 1 to 3 were examined and Exs.A1 to A8 were got marked. On behalf of the respondents, no oral evidence was adduced except marking Ex.B1-Insurance policy.

8. The Tribunal after considering the evidence on record, held that the accident was occurred due to rash and negligent driving of the DCM van by its driver. With regard to compensation, the Tribunal did not believe that the deceased was running a dry cleaning and darning centre, but took the monthly income at Rs.1,250/-. After deducting one third towards personal expenses and by applying multiplier 19, an amount of Rs.1,90,300/- was arrived. Besides that, an amount of Rs.2,500/- towards loss of estate and Rs.2,000/- towards funeral expenses were awarded totalling to Rs.1,94,800/-. Thus the total amount awarded to the 1st petitioner was Rs.1,29,367/- and the amount awarded to the 2nd petitioner was Rs.65,433/-. But in the decree, it was wrongly mentioned that the 2nd petitioner was entitled for a sum of Rs.4,332/-.

9. Admittedly, the deceased was a Washer man and the Tribunal had taken the monthly income of the deceased at Rs.1,250/-. The deceased must be earning not less than an amount of Rs.2,500/- per month as a Washer man even taking Rs.100/- per day and giving discount for holidays. If 30% of the same is enhanced as per the decision reported in **RAJESH AND OTHERS V RAJBIR SINGH AND OTHERS**, the amount comes to Rs.3,250/-. Out of the said amount of Rs.3,250/-, if one fourth is deducted towards personal expenses, it comes to Rs.2,438/- and when the same is multiplied by 12, it comes to Rs.29,256/-. As per decision reported in **SARLA VERMA AND OTHERS V DELHI TRANSPORT CORPORATION AND ANOTHER**, if multiplier 17 is applied to the age of the deceased, which is 27 years, the amount comes to Rs.4,97,352/-. Besides this amount,

the amount awarded towards funeral expenses is enhanced from Rs.2,000/- to Rs.5,000/- and the amount awarded towards loss of estate is enhanced from Rs.2,500/- to Rs.10,000/-. Therefore, total amount comes to Rs.5,12,352/- (Rupees five lakhs twelve thousand three hundred and fifty two only). Petitioners 1 and 2 shall take the said amount proportionately as fixed by the Tribunal in the above M.V.O.P. vide impugned award. The enhanced compensation amount shall be released to the petitioners on payment of deficit Court fee and the enhanced compensation amount carry interest at 9% p.a, from the date of petition till the date of realization.

10. Accordingly, the appeal is allowed. No order as to costs. Miscellaneous petitions, if any pending in this appeal shall stand closed.

A.RAMALINGESWARA RAO, J

DATED: 25-11-2015

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