

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.1941 of 2005

Between:

Palagiri Khader Basha and another.

....Appellants

and

S.Ramanaiah and another.

....Respondents

JUDGMENT PRONOUNCED ON : 02.12.2015

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.1941 of 2005

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JUDGMENT:

This appeal is preferred by the claimants, who filed O.P.No.555 of 2002, seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal - cum - District Judge, Kadapa, by award dated 24.07.2004.

The claimants before the Tribunal filed the petition seeking compensation of Rs.2,00,000/- for the death of their son in a motor accident that occurred on 17.04.2002. On that day the deceased boy, aged 13 years, was proceeding along with his brother towards Rajaram School and at about 1.00 pm, when they reached near Pitchiswamy Devalayam, the offending tractor and trailer bearing registration Nos.AP 04T 8683 and AP 04T 8684 belonging to the first respondent and insured with the second respondent came with high speed in a rash and negligent manner and hit the deceased causing his instantaneous death. At the time of the accident the deceased was studying 8th class. The Tribunal, on evidence, held that the accident occurred due to rash and negligent driving of the driver of the tractor and trailer.

With regard to the quantum of compensation, the Tribunal recorded a finding that the deceased was studying 8th class and was a very brilliant student and was aged 13 years. Though the claimants marked Exs.A5 – 7th class marks list, and Ex.A6 – Transfer certificate, the claimants did not choose to prove their contents by examining the authors and having regard to the background of the family of the claimants, their educational, financial and social status and all the relevant circumstances, the claimants were awarded Rs.65,000/-. The Tribunal awarded Rs.15,000/- towards loss of estate, Rs.500/- towards

transportation charges and Rs.500/- towards funeral expenses. Thus, in all, the claimants were awarded an amount of Rs.81,000/- with 9% interest from the date of petition till realization.

Learned Counsel for the appellants, by relying on the judgments of the Supreme Court in **V.Mekala v. M.Malathi**, 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**, 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 appellants. The amount of income cannot be calculated as the deceased was a minor and what can be taken is only a notional income. The above **V.Mekala's** case (supra) decided by the Supreme Court can be a guiding factor. The finding recorded by the Tribunal shows that the deceased was a bright student.

In the circumstances, the monthly notional income can be taken as Rs.5,000/- and with 30% enhancement in view of future raise, the annual income would come to Rs.78,000/- ($\text{Rs.5,000/-} + 1,500/- (5000 \times 30\%) = \text{Rs.6,500/-}$; $\text{Rs.6,500/-} \times 12 = \text{Rs.78,000/-}$). If multiplier of 15 is applied, the amount would come to Rs.11,70,000/- ($\text{Rs.78,000/-} \times 15$). If 50% of the same is deducted towards personal expenses, as the deceased was a minor, the amount of compensation would come to Rs.5,85,000/-. The funeral expenses should have been awarded @ Rs.10,000/- instead of Rs.500/-. The award of Rs.15,000/- towards loss of estate need not be disturbed. The amount towards transportation charges is enhanced to Rs.1,000/-. The total amount of just compensation would be Rs.6,11,000/- which is as follows:

Heads Award of Tribunal Enhancement

Rs. Rs.

Compensation 65,000.00 5,85,000.00

Funeral expenses 500.00 10,000.00

Loss of estate 15,000.00 15,000.00

Transportation charges 500.00 1,000.00

Total 81,000.00 6,11,000.00

The appeal is, accordingly, allowed modifying the award of the Tribunal by awarding an amount of Rs.6,11,000/- in the place of Rs.81,000/- 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)

02.12.2015

vs

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