

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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M.A.C.M.A.No.1958 of 2005

JUDGMENT:

Heard.

This appeal is preferred by the claimants in M.V.O.P.No.83 of 2003 on the file of Motor Accidents Claims Tribunal-cum-III Additional District Judge Court, Kakinada, seeking enhancement of compensation awarded by the Tribunal for the death of Kasimkota Appa Rao. The 1st claimant is wife, claimants 2 to 4 are the children and 5th claimant is mother of the deceased. Petition was filed claiming compensation of Rs.3,00,000/-.

2. It was alleged in the petition that on 30.10.2012 the said Appa Rao along with others attended the work in the Godown of Ramabrahman near port Railway Station, Kakinada. After completion of work, they were proceeding to Nadakuduru by walk and when they reached near Nadakuduru centre, the 1st respondent drove Auto bearing No.AP-5Y-1318 in a rash and negligent manner and dashed the said Appa Rao. Immediately after accident, he was shifted to Government General Hospital, Kakinada, where he succumbed to injuries on 31.10.2012.

3. Respondents 1 and 2 remained *ex parte*.

4. The Tribunal framed the following issues:

- “1. Whether the accident had occurred due to the rash and negligent driving of the driver of the Auto bearing No.AP-5Y-1318?
2. Whether the petitioners are entitled for compensation, if so, to what amount and from which of the respondents?
3. To what relief?”

5. The claimants examined P.Ws.1 and 2 and got marked Ex.A.1 to A.5. On behalf of the 3rd respondent insurance company, R.W.1 was examined and Ex.B.1 was marked.

6. The Tribunal, on the basis of oral and documentary evidence, held that the accident occurred due to rash and negligent driving of driver of the Auto.

7. With regard to compensation, the Tribunal gave a finding that the deceased was 48 years old as on the date of the accident. The income of the deceased was taken as Rs.1,500/- per month and after deducting $\frac{1}{3}^{\text{rd}}$ thereof and applying multiplier '13', the compensation arrived at Rs.1,56,000/-. The Tribunal also awarded an amount of Rs.15,000/- towards consortium and Rs.3,000/- towards transportation of dead body and funeral expenses. Thus, in all an amount of Rs.1,74,000/- was awarded by Award, dated 10.01.2005.

8. Even on the date of accident in 2002, the petitioner, who is a Jattu coolie, may be earning an amount of Rs.100/- per day. He may be having work for 25 days in a month and would get an amount of Rs.2,500/- per month. If 30% enhancement is made to that amount, the monthly income of the deceased comes to Rs.3,250/-. Out of the said amount, if $\frac{1}{4}^{\text{th}}$ is deducted towards personal expenses of the deceased, the contribution to the family comes to Rs.2,438/-. If the said amount is multiplied by '13', it comes to Rs.3,80,328/-. The amount awarded by the Tribunal towards consortium is enhanced from Rs.15,000/- to Rs.50,000/-. The amount awarded by the Tribunal towards transportation of dead body and funeral expenses is reduced from Rs.3,000/- to Rs.2,000/-. An amount of Rs.10,000/- is awarded towards funeral expenses and Rs.18,000/- is awarded towards loss of love and affection. Thus, in all an amount of Rs.4,60,328/- (rounded off to Rs.4,60,000/-) is awarded towards compensation for the death of the deceased.

9. Accordingly, the appeal is allowed enhancing the compensation awarded by the Tribunal by its Award, dated 10.01.2005 from

Rs.1,74,000/- to Rs.4,60,000/- with subsequent interest at 9% per annum from the date of petition till realization on the enhanced amount. However, an amount of Rs.3,00,000/- shall be released to the claimants only after payment of deficit Court fee. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this appeal shall stand closed.

A. RAMALINGESWARA RAO, J

DECEMBER 07, 2015
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THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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Date: 07.12.2015

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