

HONOURABLE SRI JUSTICE A. RAMALINGESWARA RAO

MACMA No. 1290 OF 2005

DATED 19TH November, 2015

BETWEEN

G.B.Satyanarayana and anr

...Appellants

And

Mahoji Kishan and anr

...Respondents

HONOURABLE SRI JUSTICE A. RAMALINGESWARA RAO

MACMA No. 1290 OF 2005

JUDGMENT:

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This appeal is preferred by the claimants in OP.No.190 of 2001 on the file of the learned Chairman, Motor Accident Claims Tribunal-cum-District Judge, Nizamabad. The said OP was filed claiming compensation of Rs.6,00,000/- on account of death of their father in a motor vehicle accident that occurred on 17.09.2000.

It was stated in the claim petition that on 17.09.2000 at about 0200 hours, when the deceased was travelling as contractor of tourist bus bearing No. AAJ 6681 and when the bus reached Pyderu bridge, due to rash and negligent driving of the said bus by its driver, it hit the wall of the bridge, as a

result of which, the deceased died. The deceased was aged about 38 years and was earning Rs.7500/- per month as on the date of accident.

The Tribunal having gone through the evidence on record held that the accident occurred due to rash and negligent driving of the bus by its driver.

With regard to the compensation, the claimants/appellants claimed compensation of Rs.6,00,000/-. But the Tribunal held that there was no acceptable evidence to show that the deceased was earning Rs.7500/- per month working as Tourist Operator. Accordingly it took the monthly income of the deceased at Rs.3000/- and after deducting 1/3rd there of towards his personal expenses and applying the multiplier 13.59, awarded an amount of Rs.3,26,160/- towards loss of dependency. An amount of Rs.2,500/- was awarded towards funeral expenses. Thus total compensation of Rs.3,28,660/- along with interest at the rate of 9% per annum was awarded by the Tribunal through its award dated 01.10.2004. Seeking enhancement of the same, the present appeal is preferred.

The deceased was working in Ajanta Travels and Ex.A.7 is the certificate issued by the Manager of the said Travels, which shows that the deceased was operating South India tours by hiring the buses from the said travels. Since Ex.A.7 is silent about the income of the deceased, the Tribunal has taken the notional income of the deceased at Rs.3000/- per month. In view of the decision of the Apex Court, the said notional income has to be enhanced by 30% and when it is enhanced, the

income of the deceased comes to Rs.3900/- per month. If 1/3rd of the said income is deducted towards his personal expenses, the contribution to his family would come to Rs.2600/- per month. The relevant multiplier applicable in the case of person aged about 38 years is '15'. If the same is applied, the loss of dependency comes to Rs.4,68,000/-. The funeral expenses awarded by the Tribunal is inadequate and the same is enhanced to Rs.10,000/-. The claimants/appellants lost love and affection of their father and the same cannot be assessed.

However awarding an amount of Rs.50,000/- towards loss of love and affection is just and reasonable. Thus, the award passed by the Tribunal granting compensation of Rs.3,28,600/- is enhanced to Rs.5,28,000/- with interest at 9% per annum. The enhanced amount of compensation shall carry interest from the date of filing the petition till the date of realization.

The appeal is accordingly partly allowed. Miscellaneous petitions pending consideration if any in the appeal shall stand closed in consequence. No order as to costs.

JUSTICE A. RAMALINGESWARA RAO

DATED 19th November, 2015.
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