

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.2003 of 2005

Between:

Smt.Kanthamma and another.

....Appellants

and

Ramakrishna Yellappa Papale and another.

....Respondents

JUDGMENT PRONOUNCED ON : 08.12.2015

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.2003 of 2005

JUDGMENT:

The legal representatives of the deceased – M.Dharma Reddy, filed O.P.No.10 of 1998 on the file of the Motor Accident Claims Tribunal, Mahabubnagar, claiming an amount of Rs.1,75,000/- for the death of the deceased in a motor accident that occurred on 19.12.1995.

On 19.12.1995 when the deceased was going along with his Manager at Kothur on a scooter bearing No.AP 09 G 4643 to their factory from Kothur and when they reached Kothur railway gate at about 4.15 pm, a lorry bearing No.CTW 4998 driven by its driver in a rash and negligent manner came from behind and hit the scooterists. In the said accident, the deceased sustained injuries and died on the spot. The driver of the scooter sustained injuries. The Tribunal framed the following issues:

“1. Whether the accident occurred on 19-12-1995 at about 1-15 pm near Railway gate, Kothur, due to rash and negligent driving of the lorry bearing No.CTW 4998 by its driver and whether it resulted in causing the death of M.Dharma Reddy?

2. Whether the petitioners are entitled to compensation. If so, to what amount, and from whom?

3. To what relief?”

The first appellant was examined as P.W.1 and an eye witness to the accident was examined as P.W.2. Exs.A1 to A4 were marked on their behalf.

The Tribunal, on the basis of the evidence, held that the accident occurred due to rash and negligent driving of the lorry by its driver.

With regard to the compensation, it was noticed that the deceased was aged about 50 years and was working in a private factory. However, in the absence of any evidence with regard to the income, the notional income of Rs.1,500/- per month was taken and after deducting 1/3rd thereof and applying multiplier of 11, the Tribunal arrived at the loss of contribution as Rs.1,32,000/-. Besides the said amount, an amount of Rs.2,000/- was awarded towards loss of consortium, Rs.2,500/- towards funeral expenses and Rs.2,500/- towards loss of estate. In all, an amount of Rs.1,39,000/- was awarded by award dated 30.08.2004. Seeking enhancement of the said compensation, the claimants filed the present appeal.

There is no dispute with regard to the age of the deceased which was taken as 50 years, and the relevant multiplier applicable to the persons of that age is 13 as per **Smt.Sarla Verma v. Delhi Transport Corporation**. The deceased was working as an employee in a private factory and the wages of the employee in those days would not be less than Rs.60/- per day. If Rs.1,800/- per month was taken as the income, the said income has to be enhanced by 30% in view of the latest judgment of the Supreme Court in **Rajesh v. Rajbir Singh**. If this is taken into consideration, the loss of contribution to the family would be Rs.3,65,040/- (Rs.1,800 + Rs.540 (1800 X 30%) = Rs.2,340; Rs.2,340 X 12 X 13 = Rs.3,65,040/-). The loss of consortium awarded by the Tribunal is low and in view of the latest judgments, it should be Rs.50,000/-, and accordingly, it is enhanced to Rs.50,000/-. The funeral expenses also need to be enhanced and from Rs.2,500/- to Rs.10,000/-. The loss of estate is enhanced from Rs.2,500/- to Rs.20,000/-. Thus, the total compensation, which is found to be just in the facts and circumstances of the case as follows:

Heads Award of Tribunal Enhancement

Rs. Rs.

Loss of income 1,32,000.00 3,65,040.00

Loss of consortium 2,000.00 50,000.00

Funeral expenses 2,500.00 10,000.00

Loss of estate 2,500.00 20,000.00

Total 1,39,000.00 4,45,040.00

The award of the Tribunal is modified and is enhanced to Rs.4,45,040/-. The enhanced amount shall carry interest at 9% per annum and the enhanced amount shall be paid to the claimants on payment of deficit Court fee.

The appeal is, accordingly, allowed. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

08.12.2015

vs

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