

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

M.A.C.M.A.NO.2480 OF 2005

JUDGMENT:

This appeal is preferred by the appellants-petitioners against the order, dated 30-03-2005 in O.P.No.953 of 2002 on the file of the District Judge-cum-Chairman, Motor Accident Claims Tribunal, Nizamabad (for short 'the Tribunal') seeking enhancement of compensation.

2. The appellants herein, who are mother, sister and brother of one Marwadi Venkaiah (hereinafter referred to as 'the deceased') 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. Petitioners filed the above O.P. claiming compensation of Rs.5,00,000/-, whereas wife of the deceased filed separate claim petition viz., O.P.No.802 of 2002 claiming compensation of Rs.8,00,000/-. Both the claim petitions were heard together and a common judgment was rendered awarding an amount of Rs.4,25,000/- vide impugned order.

5. It is submitted by the learned counsel appearing for the appellants that pending the present appeal, 3rd appellant (brother of the deceased) died.

6. There is no dispute with regard to nature of accident and the present appeal is confined to the quantum of compensation. The deceased was aged about 24 years and it was stated that he was doing milk business by earning Rs.12,000/- per month. But, no evidence was adduced to that effect. The Tribunal took daily earnings as Rs.100/- and arrived at monthly income of Rs.3,000/- and after deducting one third thereof, it took annual income at Rs.24,000/- and by applying multiplier 17, the Tribunal arrived at Rs.4,08,000/- towards loss of dependency for the wife. The Tribunal awarded an amount of Rs.15,000/- towards loss of consortium and Rs.2,500/- towards funeral expenses. Thus in all, the Tribunal awarded an amount of Rs.4,25,500/- as compensation. Out of the said amount, Rs.2,00,000/- was awarded to the wife, Rs.1,25,000/- to the mother and Rs.1,00,000/- to the sister of the deceased. This Court

feels that notional income of Rs.24,000/- taken by the Tribunal is correct. In the circumstances, the appropriate multiplier is 18 in case of 24 years victim as on the date of the accident. So the total loss of dependency comes to Rs.4,32,000/- instead of Rs.4,08,000/-. Since the present appeal is filed by the mother and sister of the deceased, they are entitled to enhanced amount of Rs.8,000/-, which shall carry interest at 9% p.a., from the date of petition till the date of realisation.

7. Accordingly, the appeal is partly allowed to the extent of Rs.8,000/- along with interest at 9% p.a., by holding that the appellants are entitled to the said amount over and above an amount of Rs.2,25,000/- awarded by the Tribunal. Since no appeal is filed by the claimant in O.P.802 of 2002, no enhancement is made in respect of the said claimant. No order as to costs. Miscellaneous petitions, if any pending in this appeal shall stand closed.

A.RAMALINGESWARA RAO, J

DATED: 28-01-2016

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