

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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M.A.C.M.A.No.2378 of 2005

JUDGMENT:

The claimant in O.P.No.490 of 2002 on the file of the Motor Accident Claims Tribunal—cum—V Additional District Judge (Fast Track Court), Ranga Reddy District at L.B.Nagar is the appellant herein.

2. The appellant filed the said OP claiming a compensation of Rs.3,00,000/- for the death of his son, T.Jagadish, who died in a motor accident that occurred on 22.05.2002. It was alleged in the said OP that on 22.05.2002, his son along with his wife, was going on a scooter bearing No.AP28D 6590 from Yacharam to Hyderabad, and when they reached Mangalpally gate, a tractor bearing No.AP28J 9658 and trolley No.9659 came from behind at high speed in a rash and negligent manner and dashed the scooter, as a result of which, his son died and his wife sustained injuries to her head. The owner of the tractor and trolley remained *ex parte* and the case was contested by the second respondent herein – insurance company.

3. The Tribunal framed the following issues:

“1. Whether the accident took place on 22-5-2002 at about 12 noon near Mangalpally Gate, Yacharam Mandal, Ranga Reddy District, on account of the rash and negligence of the driver of the Tractor No.AP28J-9658 Trolley No.9659 and dashed the scooter bearing No.AP28D-6590?

2. Whether the petitioner is entitled to claim compensation and is so, for how much amount?

3. To what relief?”

4. The appellant, who is the father of the deceased, got himself examined as P.W.1 and examined an eye witness as P.W.2. He marked Exs.A.1 to A.6. On behalf of the insurance company, Ex.B.1 copy of policy was marked.

5. The Tribunal, on the basis of oral and documentary evidence, held

that the accident occurred due to rash and negligent driving of the driver of the Tractor. With regard to compensation, the Tribunal noticed that the deceased was the second son of the claimant and the claimant had three sons and a daughter. The deceased was aged about 23 years and was unmarried. It was stated that he was earning Rs.6,000/- per month by doing kirana business. In support of the avocation of the deceased, license issued by the Gram Panchayat, Yacharam dated 01.04.2002 for the period from 01.04.2002 to 31.03.2003 was filed. The Tribunal did not accept the claim of the appellant that the deceased was earning Rs.6,000/- per month, but took into consideration the amount of Rs.1,500/- per month and calculated the annual income as Rs.18,000/-. It deducted 1/3rd thereof and arrived at Rs.12,000/- per annum. The age of the appellant was taken into consideration and applying the multiplier of 11, it arrived at Rs.1,32,000/- towards loss of dependency. Besides the said amount, an amount of Rs.10,000/- was awarded towards loss of estate, Rs.4,000/- towards transport and funeral charges. Thus, in all, an amount of Rs.1,46,000/- was awarded, by its award dated 10.06.2005. Seeking enhancement of the said compensation, the present appeal is filed.

6. The only point that arises for consideration is with regard to the compensation that is payable to the appellant due to the death of his son. As per Ex.A.6 license issued by the Gram Panchayat, Yacharam, it is clear that the deceased was doing some kirana business. In the kirana business, he would have definitely earned an amount of Rs.3,000/- per month, and since he was unmarried 50% of the same should be deducted towards his personal expenses. Now as per the recent decisions of the Supreme Court, even in the case of unmarried persons, the age of the deceased should be taken into consideration, but not of the parents. The deceased was admittedly aged about 23 years and the appropriate multiplier as per **Sarla Verma v. Delhi Transport Corporation** ^[1] is 18. If the monthly income of the deceased is taken as Rs.1,500/- per month and multiplier of 18 is applied, the total

compensation comes to Rs.3,24,000/-. Besides the same, an amount of Rs.10,000/- should be awarded towards funeral charges and Rs.10,000/- towards loss of love and affection. Thus, in all the appellant is entitled for an amount of Rs.3,44,000/-.

7. Hence, the award of the Tribunal dated 10.06.2005 in O.P.No.490 of 2002 awarding an amount of Rs.1,46,000/- is enhanced to Rs.3,44,000/-. The enhanced amount of compensation shall carry interest @ 9% per annum from the date of petition till the date of realization. The enhanced amount shall be paid to the appellant on payment of deficit Court fee as he paid Court fee claiming an amount of Rs.3,00,000/-.

8. Accordingly, the appeal is allowed. Miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO, J

Date: 01.02.2016
TJMR

[\[1\]](#) AIR 2009 SUPREME COURT 3104