

HON'BLE SRI JUSTICE G.SHYAM PRASAD

MACMA No.230 OF 2006

JUDGMENT:

This appeal is arising out of the order dated 27.06.2003 in M.V.O.P.No.865 of 2000 on the file of Chairman, Motor Accidents Claims Tribunal (Principal District Court), at Warangal (for short, "Tribunal").

2. The appellants herein are the legal heirs of deceased B.Laxmi, who died in a motor vehicle accident on 31.12.1999. They filed O.P.No.865 of 2000 under Section 166 of the Motor Vehicles Act claiming compensation of Rs.2,50,000/- on account of the death of B.Laxmi, whereas the Tribunal awarded an amount of Rs.1,45,200/-. Being aggrieved by the said order, they preferred this appeal.

3. The brief facts of the case are that on 31.12.1999 while B.Laxmi was going with the first appellant on a cycle, one tractor and trailer bearing No.AP23A 8515 came in a rash and negligent manner and dashed the cycle, as a result of which, B.Laxmi received injuries and died on the spot. She was a milk vendor by profession and also attending to beedi work and was earning Rs.3,000/- per month. The first appellant is her husband and other appellants are her minor children, who are dependants on her income. The deceased was aged about 35 years by the date of accident.

4. The Tribunal, on consideration of the evidence on record, has awarded compensation of Rs.1,45,200/- i.e., Rs.1,15,200/-

towards loss of contribution, Rs.15,000/- towards non-pecuniary damages and Rs.15,000/- towards loss of consortium.

5. The point for consideration in this matter is whether the appellants are entitled for enhancement of compensation?

6. Heard Sri G.Arun Kumar, learned counsel for the appellants and Smt.J.K.Anitha, counsel representing Sri B.Devanand, learned counsel for the second respondent.

7. Learned counsel for the appellants mainly contended that the Tribunal has not taken the correct income of the deceased, though there is evidence to the effect that she was earning Rs.3,000/- per month. The Tribunal has taken only Rs.900/- per month as the income of the deceased and accordingly calculated the compensation.

8. As a matter of fact, the Tribunal has not even taken the minimum wages or the amount stated by the first appellant that the deceased was earning Rs.3,000/- per month. According to P.W.1, the deceased was working as milk vendor and also doing beedi works. Even as per the Minimum Wages Act, the income of the deceased can be taken into consideration as Rs.3,000/- per month. On consideration of the evidence available on record, and the ratio laid down by the Apex Court in *Ramesh Singh v. Satbir Singh*¹, *New India Assurance Company Ltd. v. Smt. Shanti Pathak*², *Oriental Insurance Co. Ltd. v. Syed Ibrahim*³, *New*

¹ MANU/SC/7089/2008

² MANU/SC/7776/2007

³ MANU/SC/7915/2007

*India Assurance Co. Ltd., v. Kalpana (Smt)*⁴, a decision of High Court of Karnataka at Bangalore in *Sri Appayachari v. K. Vadivel and the New India Assurance Company Ltd., rep. by its Manager*⁵ and a decision of High Court of Calcutta in *United India Insurance Co. Ltd. v. Shri Buro Mahara*⁶, the income of the deceased can be taken into consideration as Rs.3,000/- per month. After deducting 1/3rd, the annual income of the deceased comes to Rs.24,000/-. Hence, the loss of contribution, if the annual income of the deceased is multiplied with the relevant multiplier, comes to Rs.3,84,000/- (Rs.24,000/- X 16). The tabular form given below would show the enhancement particulars, if any.

Sl.No.	Name of Head	Compensation Awarded by Tribunal	Compensation Awarded by this Court
01.	Loss of contribution	Rs.1,15,200/-	Rs.3,84,000/-
02.	Non-pecuniary damages	Rs.15,000/-	Rs.15,000/-
03.	Loss of consortium	Rs.15,000/-	Rs.15,000/-
	TOTAL	Rs.1,45,200/-	Rs.4,14,000/-

9. Accordingly, the Civil Miscellaneous Appeal is allowed modifying the impugned award passed by the Tribunal, by enhancing the compensation from Rs.1,45,200/- to Rs.4,14,000/- with proportionate costs and interest @ 9% per annum on the amount awarded by the Tribunal and @ 7.5% per annum on the enhanced amount. The respondents are directed to deposit the

⁴ (2007) 3 SCC 538

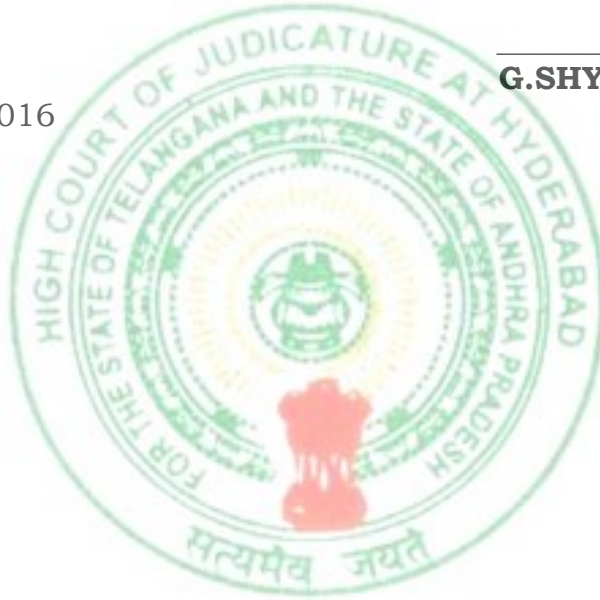
⁵ MANU/KA/3721/2013

⁶ MANU/WB/0139/2015

amount within two months from the date of receipt of a copy of this order. On such deposit, the appellants are permitted to withdraw half of the deposited amount, and the remaining amount can be withdrawn after expiry of the appeal time. The enhanced amount shall be paid to the appellants on payment of deficit Court fee as they paid Court fee claiming an amount of Rs.2,50,000/-. There shall be no order as to costs.

10. As a sequel, miscellaneous petitions, if any, pending shall stand closed.

Date:27.12.2016
TJMR



G.SHYAM PRASAD, J