

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

M.A.C.M.A.NO.2415 OF 2005

JUDGMENT:

This appeal is preferred by the appellants-petitioners against the order, dated 21.03.2005 in M.O.P.No.213 of 2004 on the file of the Motor Accident Claims Tribunal-cum- District Judge, West Godavari at Eluru (for short 'the Tribunal) seeking enhancement of compensation.

2. The appellants herein 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 1 and 2 are parents and the 3rd petitioner is minor brother of one Chandaka Rambabu (hereinafter referred to 'as the deceased'). The petitioners filed the above O.P. claiming compensation of Rs.2,50,000/- for the death of Chandaka Rambabu in a motor accident that took place on 31.01.2004 at about 03.30 PM near Perikedu Bridge, Perikedu Village when the deceased was carrying sand on his cycle carriage on foot, and when the 1st respondent-driver of the tempo taxi bearing No. AP 5V 1824 coming from Hanuman Junction side, drove it in a rash and negligent manner and dashed the deceased and as a result of which, he died in the accident. Hence, the claim petition.

5. The 1st respondent-driver of the vehicle and the 2nd respondent-owner of the vehicle remained exparte. The 3rd respondent – insurance company contested the claim stating that the 1st respondent is not having a valid licence to drive the crime vehicle. The amount claimed by the petitioners is excessive. Hence, the respondents prayed to dismiss the claim petition.

6. Basing on the above pleadings, the following issues were settled for trial:

1.Whether the accident occurred due to rash and negligent driving of the tempo taxi bearing No.AP 5 V 1824 driven by the 1st respondent-driver?

2.Whether the petitioners are entitled to claim any compensation? If so, to what amount and against which of the respondents?

3. To what relief?

7. On behalf of the petitioners, P.Ws. 1 and 2 were examined and Exs.A1 to A4 were got marked. On behalf of the respondents, no oral evidence was adduced except marking Ex.B1-Insurance policy.

8. The Tribunal after considering the evidence on record, held that the accident was occurred due to rash and negligent driving of the tempo taxi by its driver. With regard to compensation, the Tribunal took the monthly income of the deceased at Rs.1500/- and took the age of the mother of the deceased as 34 years, applied multiplier at 14.81 and awarded an amount of Rs.1,33,290/-. The Tribunal also awarded an amount of Rs.15,000/- towards mental agony. Thus, a total sum of Rs.1,48,290/- was granted by the Tribunal with interest @ 9% per annum.

9. Heard learned counsel for the petitioners and learned standing counsel for the 3rd respondent - insurance company.

10. There is no dispute that the deceased was unmarried and aged about 18 years. The accident occurred on 31.01.2004 and the deceased was stated to be working as mason and if his daily earnings are taken as Rs.100/-, for 25 working days, it comes to Rs.2,500/-. Out of the said amount of Rs.2,500/-, if half is deducted towards personal expenses, the contribution to the family comes to Rs.1,250/- per month and Rs.15,000/- per annum. If appropriate multiplier '18' is applied to the age of the deceased, which is 18 years, the amount comes to Rs.2,70,000/-. As petitioners 1 and 2 lost love and affection and underwent mental agony, they are entitled to an amount of Rs.20,000/- towards love and affection and mental agony. Hence, the amount of Rs.15,000/- granted by the Tribunal is enhanced to Rs.20,000/-. Besides this amount, Rs.10,000/- is awarded towards funeral expenses. Thus, total amount comes to Rs.3,00,000/- (Rupees three lakhs only). Though the petitioners claimed Rs.2,50,000/-, the compensation is arrived at Rs.3,00,000/- and the same is awarded to the petitioners, in view of the settled principles of law that just and reasonable compensation can be granted. Petitioners shall take the said amount proportionately as fixed by the Tribunal in the above M.V.O.P. vide impugned award. The enhanced compensation amount shall be released to the petitioners on payment of deficit Court fee and the enhanced compensation amount carry interest at 9% p.a, from the date of petition till the date of

realization.

11. Accordingly, the appeal is allowed. No order as to costs. Miscellaneous petitions, if any pending in this appeal shall stand closed.

A.RAMALINGESWARA RAO, J

DATED: 19.01.2016

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THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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