

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

M.A.C.M.A. No.2114 of 2005

JUDGMENT:

This appeal is preferred by the claimants seeking enhancement of the compensation, awarded in O.P. No.601 of 2000 by the learned I Additional Motor Accidents Claims Tribunal, Nellore (for short, 'the Tribunal') on 01.07.2005.

The said O.P. was filed by them claiming compensation of Rs.10 lakhs for the death of one Nagareddy Narendra Reddy in a motor accident that occurred on 11.01.2000 at about 8.30 P.M. opposite to the Government Headquarters Hospital, Nellore. He was aged about 36 years and was earning Rs.1,50,000/- per annum by his contract works, prawn culture and other businesses. Previously he worked in S.O.L. Chemicals Private Limited, Hyderabad as Deputy Manager (Stores) during the years 1990-91 and 1992. Later on, he worked in A.M.R. Constructions, Hyderabad, as Site In-charge from 1993 to 1996. On the fateful day, while he was going along with one Lanka Ramanjaneya in an auto rickshaw bearing registration No.AP.26.U.1362 from Gandhi Statue, Nellore to reach his house situated at Postal Colony, Dargamitta, Nellore, a Jeep bearing registration No.AP.26.A.9319 came in opposite direction and dashed the auto rickshaw. In the said accident, the auto rickshaw fell to its left side and the said Narendra Reddy sustained multiple fractures to his right hand rib Nos.5 to 9, his liver was punctured and became unconscious. He was immediately shifted to the Government Headquarters Hospital, Nellore and from there he was shifted to the Sundaram Medical Foundations Dr. Rangarajan Memorial Hospital, Chennai for expert treatment. While undergoing treatment, he succumbed

to the injuries on 27.01.2000 at Chennai.

Before the Tribunal, the owner of the Jeep remained *ex parte* and the insurer filed counter opposing the claim.

On the basis of the pleadings, the Tribunal framed the following issues:

- 1) Whether the accident in question occurred, if so, was it due to the fault of the driver of jeep AP.26.A.9319?
- 2) Whether the jeep belongs to R.1 and stood insured with R.2 on the date of the accident, if so, does its policy cover the risk of the deceased?
- 3) Whether the claimants are entitled to the compensation, if so, to what amount and from which of the respondent?
- 4) To what relief?

Before the Tribunal, PWs 1 to 6 were examined and exhibits A1 to A17 were marked. On behalf of the respondents, RWs 1 and 2 were examined and Ex.B1- Insurance Policy was marked.

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 Jeep bearing registration No.AP.26.A.9319.

Coming to the compensation, the Tribunal awarded the following amounts along with interest @ 9% per annum.

The total compensation payable to the petitioners would work out to Rs.3,64,837.65 ps. detailed as under:

(a) Loss of dependency	Rs.1,28,000.00
(b) Medical expenses	Rs.2,04,990.65
(c) Loss of estate comprising of loss of expectation of life, pain and suffering, and loss of amenities to the petitioners	Rs. 15,000.00
(d) Transportation Charges	Rs. 4,847.00
(e) Funeral Expenses	Rs. 2,000.00
(f) Loss of consortium to P.1	Rs. 10,000.00

	Rs.3,64,837.65
TOTAL	(or)

Rs.3,64,838.00

Seeking enhancement of the said amount, the present appeal is filed.

There is no dispute with regard to death of Narendra Reddy in the accident and his age being 36 years. The father of deceased was examined as PW1. After initial admission in the Government Headquarters Hospital, Nellore, he was taken to Sundaram Medical Foundations Dr. Rangarajan Memorial Hospital, Chennai on 12.01.2000 and he was in Intensive Care Unit for more than 10 days. He underwent surgery in the said hospital. Finally, the doctors declared him dead on 27.01.2000. The dead body was transported to Macherlavaripalem, Nellore District by Ambulance. The deceased was a Graduate and he worked in Hyderabad on a consolidated pay ranging from Rs.2,500/- to Rs.4,000/- per month during the years 1990-91 and 92. Later he worked in A.M.R. Constructions and earning Rs.5,000/- to Rs.7,000/-. After leaving the job in the construction company, he was involved in prawn culture along with his father from 1997 onwards. There is no dispute that the deceased was a graduate, who graduated from Ranchi University in 1983. In support of the earnings of the deceased, while he was working as Deputy Manager (Stores) in S.O.L. Chemicals Private Limited, Hyderabad, PW3 was examined. In support of the ownership of agricultural land, PW4 was examined and exhibits A11 and A12 were filed. In support of the deceased's employment in A.M.R. Constructions, Hyderabad, PW6 was examined. However, as on the date of the accident, the deceased was earning income through agriculture only. Though it was stated that he was getting an amount of Rs.1,50,000/- per annum, no evidence was let in on that aspect. However, keeping

in view the education qualifications and earning capability of the deceased, it can be safely assumed that on the date of accident i.e., 11.01.2000 the deceased can earn Rs.3,000/- per month. In view of the latest judgment of the Supreme Court in **Rajesh v. Rajbir Singh**^[1], the said income has to be enhanced by 50% taking into consideration the future prospects. If the same is taken into consideration, the income would be Rs.4,500/- per month. The deceased was married and there are four dependants on him. In view of the same, 1/3rd has to be deduced towards personal expenses. The net income remains Rs.3,000/-, for which a multiplier of '15' has to be applied. The loss of contribution to the family would come to Rs.5,40,000/-. To the said amount, the amount of Rs.2,04,990.65 ps, which is rounded to Rs.2,05,000/-, as awarded by the Tribunal towards medical expenses, can be safely added as there is no dispute with regard to the same. The loss of estate of Rs.15,000/-, awarded by the Tribunal, need not be awarded in a case of death. The transportation charges of Rs.5,000/- can be awarded as awarded by the Tribunal, but the funeral expenses shall be enhanced from Rs.2,000/- to Rs.10,000/- and the loss of consortium from Rs.10,000/- to Rs.50,000/-. Thus, the just and proper compensation for the death of Narendra Reddy in the motor accident that occurred on 11.01.2000 is Rs.8,10,000/- (Rupees Eight lakhs and ten thousand only) and the enhanced amount of compensation shall carry the same rate of interest @ 9% per annum from the date of petition till the date of realisation.

Accordingly, this Appeal is partly allowed enhancing the compensation from Rs.3,64,838/- to Rs.8,10,000/-. No order as to costs.

Miscellaneous Petitions, if any, pending shall stand closed.

27.01.2016
MVA

[\[1\]](#) 2013 ACJ 1403