THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

M.A.C.M.A No. 2147 of 2005

ORDER:

The claimants in O.P.No.2489 of 2003 on the file of the MVACT-cum-V Additional Chief Judge, City Civil Court, at Hyderabad, are the appellants herein.

2. The claimants filed the said OP claiming a compensation of Rs.6,00,000/- on account of the death of their son G. Narasimha Reddy. It is their case that on 28.03.2003 at about 3.45 PM, while the deceased was traveling on Hero Honda Motorcycle bearing No.AP 9A 1055, a lorry bearing No.AAT 5321 driven by its driver in a rash and negligent manner dashed the motorcycle near Kondapur village outskirts and due to the said accident, the deceased received injuries and died on the way to the hospital.

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

> "**1. Whether the accident caused death to the deceased that took place on 28.03.2003 due to the rash and negligent driving of the driver of the lorry bearing No. AAT 5321?**
>
> **2. Whether the petitioners are entitled for compensation if so to what amount and from whom?**
>
> 3. **To what relief?"**

4. On behalf of the claimants, PWs.1 to 3 were examined and Exs.A1 to A17 were got marked. Copy of insurance policy was marked as Ex.B1.

5. The Tribunal, on the basis of oral and documentary evidence, held that the accident occurred due to the rash and negligent driving of the driver of the lorry bearing No. AAT 5321.

6. In the claim petition, it was stated that the deceased was working as Marketing Executive and was drawing Rs.3,500/- per month apart from receiving a remuneration of Rs.2,500/- per month from M/s Shravani Finance Corporation, Narsapur. In support of their case, PW3 was examined to show that the deceased was earning Rs.3,500/- per month and Ex.A11-Salary certificate was marked. But the said evidence was not accepted by the Tribunal on the ground that no account books were filed to substantiate the payment of salary. Similarly the receipt of remuneration from M/s Shravani Finance Corporation was also disbelieved in the absence of any evidence. However, the Tribunal noticed that the deceased was a B.Com graduate and taking into consideration the daily wages prevailing at that time, took the monthly income at Rs.1,800/-. Applying the multiplier of 14 and after deducting 1/3rd towards personal expenses, the amount of compensation was arrived at Rs.2,01,600/-. Apart from the said amount, an amount of Rs.1,000/- was awarded towards transportation.

7. Admittedly, the deceased was unmarried. Though no acceptable evidence was filed with regard to the claim of salary of Rs.3,500/- per month, even assuming that he was earning Rs.100/- per day, the monthly income for working days in a month comes to Rs.2,500/-. Adding 30% to the said income in view of future prospects, the monthly income comes to Rs.3,250/-. Since the deceased was unmarried, 50% of his salary should be deducted, and the remaining salary comes to Rs.1,625/-. The

deceased was aged about 24 years at the time of accident and the appropriate multiplier would be 18. If multiplier 18 is applied, the loss of income would come to Rs.3,51,000/-. The Tribunal did not award any amount towards funeral expenses, but awarded an amount of Rs.1,000/- towards transportation. In the circumstances, an amount of Rs.10,000/- should be awarded in the place of Rs.1,000/- towards transportation.

8. Thus, in all, the compensation to which the appellants are entitled to is Rs.3,61,000/-. Accordingly, the award passed by the Tribunal on 20.04.2005 for Rs.2,01,600/- is modified to Rs.3,61,000/- and the enhanced compensation shall carry the same interest of 9% from the date of petition till the date of realisation.

9. The appeal is, accordingly, partly-allowed. No costs. Miscellaneous petitions, if any pending, shall stand closed.

A. RAMALINGESWARA RAO, J

18th January, 2016

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THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

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