

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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C.M.A. No.1110 of 2003

JUDGMENT:

The appellants herein are parents of the deceased and they are the claimants in M.V.O.P. No.61 of 2000 on the file of the Motor Accidents Claims Tribunal-cum-District Judge, Chittoor (for short, 'the Tribunal').

The appellants filed the claim petition for an amount of Rs.1,50,000/- stating that when their son was travelling by Tractor-trailer bearing registration No.AP-03-U-5390 on 22.08.1999 at about 9.30 P.M. on Palamaner-Bangarupalyam road at Moghili Ghat, a lorry bearing registration No.AP-16U-5423, driven by its driver, from Palamaner to Chittoor side lost control and dashed behind the front left side of the Tractor-trailer. As a result of the said accident, their son fell down under the lorry and sustained multiple injuries. On the way to the Government Hospital, Palamaner, he died.

Before the Tribunal, the owner of lorry remained *ex parte* and the case was contested by the Insurance Company.

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

- (1) Whether the accident occurred was due to the rash and negligent driving of the driver of the lorry AP-16-U-5423?
- (2) Whether the petitioners are entitled to claim any compensation, if so, to what amount and from whom?
- (3) To what relief?

Before the Tribunal, PWs 1 and 2 were examined and exhibits A1 to A5 were marked. No evidence was let in on behalf of the respondents.

On the basis of oral and documentary evidence, the

Tribunal held that the accident occurred due to rash and negligent driving of the driver of the lorry bearing registration No.AP-16U-5423.

On the basis of exhibits A1, A2 and A5, the Tribunal noticed that the age of deceased was 20 years and he was working as a labourer. The Tribunal took the daily earnings as Rs.50/- on the basis of the statutory minimum wages and it was assumed that he would be working for a period of 20 days in a month and earning Rs.1,000/- per month. After deducting $\frac{1}{3}$ rd thereof towards personal expenses and applying the multiplier '9' to the age of the younger of the parents, the Tribunal arrived at the loss of dependency to Rs.72,000/-. An amount of Rs.5,000/- towards loss of estate, and Rs.10,000/- each for loss of love and affection and pain, suffering and mental agony was awarded. The amount of compensation was rounded to Rs.1,00,000/-. Seeking enhancement of the said amount, the present appeal is filed.

The only point that remains to be considered in the present appeal is with regard to the just compensation that is payable to the parents of deceased.

The Tribunal noticed that the deceased was working as a labourer on the date of accident and was earning Rs.50/- per day. The Tribunal took the wages for 20 days and instead of 20 days if wages for 25 days are taken into account, the amount of monthly income would come to Rs.1,250/-. Since the deceased was unmarried, his contribution to the family would be 50% of the said amount. As he was aged about 20 years, the appropriate multiplier that is applicable to his age is '18' and if the same is applied, the loss of dependency comes to Rs.1,35,000/-. To the said amount, the amount of Rs.5,000/- towards loss of estate and

Rs.10,000/- for loss of love and affection and pain, suffering and mental agony can be added. Thus, the total amount of just compensation comes to Rs.1,50,000/-. Thus, the appeal is allowed enhancing the compensation from Rs.1,00,000/- to Rs.1,50,000/- (Rupees one lakh and fifty 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 allowed. No order as to costs.

Miscellaneous Petitions, if any, pending shall stand closed.

A.RAMALINGESWARA RAO, J

03.02.2016

MVA