

HON'BLE SRI JUSTICE G.SHYAM PRASAD

MACMA No.937 of 2010

JUDGMENT:

This appeal is arising out of the order dated 29.03.2010 in MVOP No.592 of 2007 on the file of the Chairman, Motor Accident Claims Tribunal-cum-I Additional District Judge, Kadapa (for short 'the Tribunal').

2. The appellants are the legal heirs of Karamala Ganga Chari (hereinafter referred to as 'the deceased'), who died in a tractor accident that occurred on 06.03.2007. They filed the above referred O.P. under Section 163-A of the Motor Vehicles Act, 1988 (for short 'the Act'), claiming compensation of Rs.4,50,000/- on account of the death of the deceased.

3. The brief facts of the case are that on 06.03.2007, the deceased, who was carpenter by profession, went on a motor cycle bearing No.AP04 G T/R 0191 to Kamalapuram side on his work and after finishing his work when he was proceeding back to his village Vempalli at about 11 pm or so, and when he reached near Reliance petrol bunk situated on Kamalapuram to Yerraguntla main road, the 1st respondent-tractor bearing No.AP04 V 1778 along with his trailer bearing No.AP04 V 1779 being loaded with sand driven by its driver in a rash and negligent manner at high speed came from behind and dashed against the deceased. Due to the multiple injuries sustained by the deceased, he met with instant death. The deceased being a carpenter was earning Rs.200/- per day. The legal heirs of the deceased, the wife, children and the parents, claimed compensation of Rs.4,50,000/- on account of the death of the deceased.

4. The Tribunal, on consideration of the oral and documentary evidence, has awarded compensation of Rs.2,14,500/- as against the claim of Rs.4,50,000/-. Dissatisfied with the quantum of compensation, the appellants filed this appeal for enhancement of the same.

5. Heard Smt.Kiranmayee, learned counsel representing Sri D.Kodandarami Reddy, learned counsel for the appellants and Sri S.Venkateswarlu, learned counsel for the respondents.

6. The point for consideration in this appeal is as to whether the appellants are entitled to enhancement of compensation?

7. Learned counsel for the appellants submits that the compensation awarded by the Tribunal is inadequate. The Tribunal has not taken the correct annual income of the appellant. The appellant was a carpenter by profession. He was earning Rs.200/- per day as a carpenter and was earning Rs.6,000/- per month, but the Tribunal has taken Rs.15,000/- as annual income, which is very less than the income of the deceased.

8. Learned counsel for the respondents submits that the claimants filed the petition under Section 163-A of the Act and the Tribunal has rightly taken into consideration the annual income of the deceased as Rs.15,000/- as per Schedule II to Section 163-A of the Act and therefore, it does not require any interference.

9. On consideration of the evidence and the arguments of learned counsel for the appellants and respondents, it is obvious that the Tribunal has taken annual income of the deceased as Rs.15,000/-. There is material on record to show that the deceased was a carpenter by profession. It is obvious that no evidence was placed on record to prove the income of the deceased.

Therefore, the Tribunal has taken into consideration, an amount of Rs.15,000/- as annual income of the deceased basing on Schedule II to Section 163-A of the Act. Since this is a case of death of a person, who was working may be as a carpenter or a labourer, his minimum income can be taken into consideration as Rs.3,000/- per month. Even as per the Minimum Wages Act, the income of a person working in an unorganized sector can be taken as not less than Rs.3,000/- per month.

10. In the instant case, the deceased was working as a carpenter. As such, there is a possibility of the deceased earning income of Rs.3,000/- per month as claimed by the appellants. However, the notional income of the deceased is taken as Rs.3,000/- per month for the purpose of calculation of compensation. Therefore, the annual income of the deceased comes to Rs.36,000/- (Rs.3,000/- x 12). After deducting one-fourth towards the personal expenses of the deceased, his annual contribution to the family would be at Rs.27,000/-. The Tribunal has taken '18' multiplier as per Schedule II to Section 163-A of the Act for the age of 27 years. In view of the recent decision rendered in **SARLA VERMA & OTHERS V. DELHI TRANSPORT CORPORATION AND ANOTHER¹**, multiplier applicable to this case is '17' since he was having large family consisting of his wife, two children and parents. After applying the multiplier '17', which is applicable to the age group of the deceased, the loss of dependency can be assessed at Rs.4,59,000/- (Rs.27,000/- x 17).

¹ 2009 (3) Supreme 487

11. It is further submitted by the learned counsel for the appellants that the Tribunal has not awarded adequate amount towards obsequies and consortium.

12. On consideration of the material available on record, the compensation awarded by the Tribunal is enhanced from Rs.2,14,500/- to Rs.4,99,000/-. The tabular form given below would show the enhancement particulars:

S.No.	Name of Head	Compensation awarded by the Tribunal	Compensation awarded by this Court
1	Monitory loss or loss of dependency or loss to estate	Rs.2,02,500/-	Rs.4,59,000/-
2	Obsequies expenses	Rs.2,000/-	Rs.10,000/-
3	Loss of consortium to the first petitioner	Rs.10,000/-	Rs.20,000/-
4	Loss of love and affection to the children	Nil	Rs.10,000/-
	Total	Rs.2,14,500/-	Rs.4,99,000/-

13. Even though the claim is only for Rs.4,50,000/-, according to the principles laid down by the Hon'ble Supreme Court in **NAGAPPA V. GURUDAYAL SINGH AND OTHERS**², the amount determined is just compensation to which the petitioners are entitled. Therefore, the enhanced compensation even though is more than the amount actually claimed is granted.

15. Accordingly, the appeal is allowed modifying the compensation awarded by the Tribunal from Rs.2,14,500/- to Rs.4,99,000/-. The enhanced compensation shall carry interest at the rate of 7.5% per annum from the date of petition till the date of realisation. The appellants have to pay the court-fee on the excess

² AIR 2003 SC 674

amount awarded more than their claim. There shall be no order as to costs.

The Miscellaneous Petitions, if any, pending in this MACMA shall stand closed.

Date : 09.02.2017
ssp

G.SHYAM PRASAD,J

