

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

[Special Original Jurisdiction]

THURSDAY THE FIFTH DAY OF OCTOBER
TWO THOUSAND AND SEVENTEEN

PRESENT
HONOURABLE DR. JUSTICE SHAMEEM AKTHER

MACMA.No. 2374 OF 2005

Between:

Kotte Anjavva & Ors. ... Appellants/claimants

V/s.

Shaik Ahmed & Anr. ... Respondents-Respondents

Counsel for the appellants : Sri P.Radhiv Reddy

Counsel for the Respondents: Sri B.Devanand for R-2

The court made the following: [Order follows]

HONOURABLE DR. JUSTICE SHAMEEM AKTHER

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ORDER :

This Civil Miscellaneous Appeal is filed by the appellants/claimants against the award and decree dated 14/3/2005 passed in OP.No. 714 of 2001 by the Motor Accident Claims Tribunal [I-Additional District Judge], Nizamabad seeking enhancement of compensation.

2. Heard the counsel appearing on behalf of the appellants and the learned standing counsel appearing on behalf of respondent No.2-New India Insurance Company Limited, Nizamabad, and perused the record.

3. The counsel for the appellants would submit that the deceased was 36 years old and was doing agriculture and earning Rs.10,000/- per month. The appellants are dependents, who are six in numbers. The Tribunal award compensation of Rs.4,14,000=00 under various heads. The Tribunal has wrongly assessed the earnings, loss of dependency and also awarded meagre compensation towards loss of consortium, love and affection, transport and funeral expenses and ultimately prayed to award the compensation as claimed.

4. On the other hand, the standing counsel appearing on behalf of second respondent-Insurance Company would submit that the Tribunal had rightly taken the age of the deceased as 40 years and applied 16 as the

relevant multiplier. There is no infirmity and there are no grounds warranting interference by this Court and ultimately prayed to dismiss the appeal.

5. There is no contention with regard to rashness and negligence on the part of the driver of the offending lorry bearing No. AHT-5657 by its driver and causing death of the deceased, Kotte Chinna Sailoo. There is no dispute with regard to appellants 1 to 6, as dependents of the deceased. The only point for determination is enhancement of compensation.

6. The point for determination is “whether the appellants are entitled for enhancement of compensation as contended ?”

7. It is evident from the record that the deceased was agriculturist. The document Ex.A-3 postmortem examination report marked on behalf of the appellants would show that the deceased was 40 years old as on the date of accident. The Tribunal had applied the multiplier 16, fixed the monthly income of the deceased at Rs.3000/- per month, deducted 1/3rd towards personal expenses of the deceased and arrived loss of dependency at Rs.24,000/- per annum and awarded Rs.3,84,000/- towards loss of dependency. Further the Tribunal awarded Rs.15,000/- towards loss of consortium, Rs.10,000/- towards loss of estate and Rs.5000/- towards transportation and funeral and in all the total compensation awarded Rs.4,14,000=00.

8. In view of the facts and circumstances, it is appropriate to rely on the decision of the Apex Court in **SARLA VERMA & ORS. V/s. DELHI TRANSPORT CORPORATION AND ANR** ., reported in 2009 [6] SCC-121 for determination of compensation to the appellants. The appellants are six in numbers and they are dependents on the deceased, therefore, 1/4th is liable to be deducted towards personal expenses of the deceased had he been alive. As per Ex.A-3 Postmortem Examination Report, the age of the deceased is 40 years and the appropriate multiplier for the age of 40 years is 15. There is evidence on record to show that the deceased was an agriculturist and the Tribunal has rightly taken monthly earnings as Rs.3,000/- per month.

9. In view of the above, the compensation payable to the appellants towards loss of dependency is calculated as hereunder :

$$\text{Rs.3000/-} \times 12 = 36,000/- \times 15 = 5,40,000/- - \frac{1}{4} = 4,05,000/-$$

The compensation payable towards loss of dependency is Rs.4,05,000/-.

The first appellant is not the wife of the deceased, therefore, she is entitled to

Rs.50,000/- towards loss of consortium and loss of estate. The appellants are entitled for another sum of Rs.50,000/- towards loss of love and affection.

Further the appellants are entitled to Rs. 25,000/- towards transportation of

dead body and funeral expenses. In all the appellants are entitled for total compensation of Rs.5,30,000=00.

10. The Tribunal has awarded interest @ 9% per annum on the compensation awarded. In view of the decision of the Hon'ble Supreme Court in **RAJESH AND ORS. V/s. RAJBIR SINGH AND ORS**¹. wherein the interest granted by the Apex Court is 7.5% p.a. Therefore, the appellants are entitled to interest @ 7.5% p.a. on the enhanced amount of compensation. On such deposit, the appellants shall share the enhanced compensation equally. The other terms and conditions imposed by the Tribunal are maintained accordingly.

11. Subject to the above modification, this appeal is partly allowed. There shall be no order as to costs.

12. As a sequel, miscellaneous petitions if any, pending in this MACMA Petition shall stands disposed of.

DR. JUSTICE SHAMEEM AKTHER

05/10/2017
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¹) [2013 ACJ-1403]

HONOURABLE DR. JUSTICE SHAMEEM AKTHER



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(PARTLY ALLOWED)

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