

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

[Special Original Jurisdiction]

MONDAY THE SIXTH DAY OF MARCH
TWO THOUSAND AND SEVENTEEN

PRESENT
HONOURABLE DR. JUSTICE SHAMEEM AKTHER

MACMA.NO. 356 OF 2006

Between:

Morla Chinna Thippaiah & Anr. ... Appellants-claimants

V/s.

D. Beerappa & Anr. ... Respondents-Respondents



Counsel for the Appellants : Sri K. Venkatram Reddy

Counsel for the Respondents: : Sri D. Venkatrami Reddy

The court made the following: [Judgment follows]

HONOURABLE DR. JUSTICE SHAMEEM AKTHER**MACMA.NO. 356 OF 2006****JUDGMENT:**

This appeal is filed by the parents of Morla Sambaiah, who died in a motor accident on 30/05/2003, aggrieved by the award and decree dated 26/10/2005 in OP.No. 362 of 2003 on the file of the Court of Chairman, Motor Accidents Claims Tribunal-cum-II-Additional District Judge, Ranga Reddy, at N.T.R. Nagar, Hyderabad [for short, “the Tribunal”], wherein the Tribunal awarded a compensation of Rs.1,90,000=00 as against the claim of Rs.4,00,000=00.

2. Learned counsel for the appellants contended that the deceased was 21 years old, working as a labourer and earning Rs.3,000/- per month. The appellants have proved the rashness and negligence on the part of the driver of crime vehicle, i.e., lorry bearing No. AP-16-X-3256. The Tribunal erred in granting compensation of Rs.1,90,000/- taking the average age of the parents, i.e., 40 and 45 years respectively and taking into consideration the monthly income of the deceased as Rs.1500/-. The Tribunal has also erred in granting Rs.2,000/- towards funeral expenses and Rs. 8,000/- towards loss of estate, which is meagre and ultimately prayed to enhance the compensation of Rs.4,00,000/- and also relied on the decisions reported in **N. SURENDER RAO AND ORS. V/s. B. SWAMY AND ANR**¹, **SMT. NEETA W/o. KALLAPPA KADOLKAR AND ORS. V/s. THE DIVISIONAL MANAGER, MSRTC, KOLHAPUR**², **RADHEY SHYAM AND ANR. V/s. CHHABI NATH AND ORS**

¹) 2014 (1) ALT-512 (DB)

²) 2015 (4) CCC 34 (SC)

**³., and LAKKAMSANI HANUMAN PRASAD AND ANOTHER
V/s. G. NAGENDRA GOUD AND ORS ⁴.**

3. Learned counsel for the second respondent-United India Insurance Company Limited contended that the Tribunal has rightly taken the average age of the parents of the deceased. The accident occurred in the year 2003, the minimum wages payable during that period was only Rs.1500/-per month. The Tribunal has also granted adequate and just compensation for the loss of love and affection and towards funeral expenses. There is no infirmity in the order under appeal and ultimately prayed to dismiss the appeal with costs.

4. There is no dispute with regard to rash and negligence driving of the crime vehicle bearing No. AP-16-X 3256. Believing the evidence of PW-1, who is the father of the deceased, has clearly and categorically deposed about the rashness and negligence on the part of the driver of the said lorry causing the death of Morla Sambaiah in that accident. Ex.A-1 is the certified copy of FIR in Crime No. 213/03 of Police Station Hayathnagar reveals rash and negligent act on the part of the driver of the said lorry. Ex.A-2 certified copy of inquest report, Ex.A-3 is the certified copy of scene of offence panchanama, Ex.A-4 is the certified copy of Motor Vehicle Inspector's report reveals that there is no mechanical defect in the said lorry, Ex.A-5 is the certified copy of post-mortem examination report reveals that Morla Sambaiah died in that accident, Ex.A-6 is the charge sheet and Ex.A-7 is the xerox copy of Insurance Policy. There is also evidence of PW-2 P. Laxma Reddy, who has also deposed that on 30/5/2003 at about 10:30 a.m. he was standing at Srinivasa Hospital, situated at NH-9, Hayathnagar and at that time the lorry bearing No. AP-16-X 3256 came from the side of Hyderabad and

³) (2015) 5 SUPREME COURT CASES-423

⁴) 2015 (4) ALT-63

dashed to Morla Sambaiah, who was going on road. There is nothing on record to disbelieve the oral and documentary evidence. It can be safely concluded that the deceased died due to the rash and negligent driving of the driver of the said lorry. The tribunal has given elaborate reasons and no other reasons can be substituted.

5. As per the decisions relied upon by the learned counsel for the appellants, the age of the deceased is required to be taken into consideration to award the compensation. Approximately the monthly income of the deceased can be taken as Rs.3,000/- instead of taking it as Rs.1,500/- per month. The decision rendered in **N. SURENDER RAO AND ORS. V/s. B. SWAMY AND ANR**, supra-1 of the Division Bench of this Court and the decision in **SARLA VERMA AND ORS. V/s. DELHI TRANSPORT CORPORATION AND ANR** ⁵, wherein the deceased was bachelor, his parents were claimants. The Hon'ble Supreme Court has taken the age of the mother to award compensation. As per the material placed on record and as per Ex.A-2 certified copy of inquest panchanama, the age of the deceased was shown as 16 years. As per Ex.A-5 certified copy of post-mortem examination report, the age of the deceased is 19 years. In these circumstances, the age of the deceased can be taken as 19 years and it can also be held that he was a labourer. Since the accident pertains to the year 2003, the monthly income of labourer can be taken as Rs.2,500/- since the labourer do not get work in all the days. So as per the material place on record, the age of the mother of the deceased on the date of filing of the OP was 40 years. As per the decision of the Hon'ble Supreme Court in Sarla Verma, suitable appropriate multiplier can be taken for the age of 40 i.e., 14. The compensation on the ground

⁵) 2009 (6) SCC -121 SC

of loss of earning payable to the appellants can be calculated as mentioned hereunder:

$$2,500/- \times 12 = 30,000/- \times 14 = \text{Rs.}4,20,000/-.$$

6. Since the deceased was a bachelor, half of the earnings are deducted towards his personal expenses, therefore, the compensation payable to the parents of the deceased comes to Rs.2,10,000/-. It is evident from the record that an amount of Rs.2,000/- is granted towards loss of love and affection and as such it is enhanced to Rs.25,000/- . On the score of funeral expenses Rs.8000/- is granted and the same is liable to be enhanced to Rs.25,000/-. The appellants can also be granted Rs.20,000/- towards loss of estate. Thus, in all the appellants are entitled for a compensation of Rs.2,80,000/- . It is evident from the record that the lorry bearing No. AP-16-X 3256 is insured with the second respondent-Insurance company under the original of Ex.B-1 copy of Insurance Policy. There was valid coverage of insurance on the date of occurrence and there is no evidence that the owner and driver violated the conditions of Ex.B-1 Insurance Policy. Though the claim against respondent No.1 is dismissed on 14/07/2016 in view of the decision in **MEKA CHAKRA RAO V/s. YELUBANDI BABU RAO @ REDDEMMA AND ORS**⁶. As this appeal is filed for enhancement of compensation and there is no bar to make respondents 1 and 2 jointly and severally liable to pay compensation in this case.

7. In the result, the appeal is partly allowed and the compensation is enhanced to Rs.2,80,000/- from Rs.1,90,000/- with 7.5% per annum from the date of filing of the petition till realization. The appellants 1 and 2 are equally entitled to share the compensation awarded. There is no change with regard to other conditions imposed by Tribunal.

⁶) 2001 (1) ALT-495 (DB)

8. With the above modification, the impugned award and decree is modified. The appeal is allowed in part. No costs.

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

DR. JUSTICE SHAMEEM AKTHER



06/03/2017
I s L

HONOURABLE DR. JUSTICE SHAMEEM AKTHER



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