

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2626 OF 2006

JUDGMENT:

This appeal is filed by the appellants-claimants under Section 173 of the M.V. Act, aggrieved by the order, dated 25.08.2006, in M.V.O.P.No.477 of 2004, passed by the Motor Accident Claims Tribunal-cum-IV Addl. District Judge, Kadapa, for enhancement of compensation.

2. Heard the learned counsel for the appellants, the learned standing counsel for the Insurance Company and perused the record.

3. Learned counsel for the appellants would submit that compensation of Rs.2,70,000/- was granted by the Tribunal as against the claim of Rs.6,00,000/- on account of the death of the deceased-Peram Brahmananda Reddy. The deceased was doing agriculture, money lending business and also doing sheep business on lease etc., The Tribunal had taken monthly income of the deceased as Rs.2,250/- at the rate of Rs.75/- per day and granted compensation of Rs.2,70,000/-. No compensation was awarded towards medical expenses. There are receipts under Ex.A12 to substantiate the same and ultimately, prayed to enhance the compensation to Rs.6,00,000/- as claimed.

4. On the other hand, learned standing counsel for the Insurance Company would submit that the Tribunal had granted just and reasonable compensation. There are no circumstances to interfere with the same and ultimately, prayed to dismiss the appeal.

5. The appeal against respondent No.3-owner of the vehicle dismissed on 17.03.2017 for default. However, dismissal of the appeal for default against respondent No.3-owner of the vehicle is of no consequence to decide the quantum of compensation, in view of the decision of a Division Bench of this Court in **Meka Chakra Rao v. Yelubandi Babu Rao @ Reddemma and others**¹, wherein it is held that:

"If the Claims Tribunal records a finding that the accident had taken place due to the rash or negligent driving of the driver of the motor vehicle and if such finding is not challenged either by the Insurance Company or by the owner of the motor vehicle, the question that arises in appeal filed against the orders of the Tribunal by the claimants is only with regard to the determination of just, fair and reasonable quantum of compensation and therefore there cannot be any bar to decide the quantum of compensation against the Insurance Company even in the absence of owner of the vehicle to the extent of the statutory liability of the Insurance Company. But the quantum of compensation cannot be decided over and above the statutory liability of the Insurance Company in the absence of the owners, but the question of the statutory liability of the Insurance Company survives for consideration at the appellate stage."

6. There is no dispute with regard to death of the deceased on 16.01.2004 due to rash and negligent driving of the auto rickshaw bearing No. AP 02 T 4337 by its driver. Though the appellants contended that the deceased was doing agriculture and money lending business etc., they have not filed any single document to substantiate the same. Except the self-serving statements of the witnesses, there is nothing to believe the same. The Tribunal had taken the income of the deceased as Rs.75/- per day i.e., Rs.2,250/- per month. The Tribunal deducted one third of the income of the deceased towards personal expenses and arrived at Rs.1500/-for contribution of income to his

¹ 2001(1) ALT 495 (D.B.)

family. The Tribunal by applying multiplier 15 for the age group of 40 years granted compensation of Rs.2,70,000/- (Rs.1500/- X 12 X 15). The Tribunal had not granted compensation towards loss of consortium. Therefore, the 1st appellant, who is the wife of the deceased is granted compensation of Rs.40,000/- towards loss of consortium. The appellants are also entitled for a sum of Rs.15,000/- towards loss of estate, Rs.15,000/- towards funeral expenses and Rs.1,000/- towards transportation charges i.e., Rs.71,000/-. There is evidence to show that the deceased was hospitalized and he underwent treatment before his death. The Tribunal ought to have awarded some amount towards medical expenses. Therefore, an amount of Rs.9,000/- is awarded towards medical expenses. In all, the appellants-claimants are entitled to compensation of Rs.3,50,000/- (Rs.2,70,000/- + Rs.40,000/- + Rs.15,000/- + Rs.15,000/- + Rs.1,000/- + Rs.9,000/-). There shall be no changes in the other conditions imposed by the Tribunal.

7. In the result, the compensation awarded by the Tribunal is enhanced from Rs.2,70,000/- to Rs.3,50,000/-. The appellants are entitled to interest at 7.5% p.a., on the enhanced compensation amount from the date of petition till the date of realization. The apportionment is as follows:

Appellant No.1 (wife)	Rs.1,50,000/-
Appellant No.2 (son)	Rs.75,000/-
Appellant No.3 (son)	Rs.75,000/-
Appellant No.4 (mother)	Rs.50,000/-

On deposit, the appellants are entitled to withdraw the same.

8. Accordingly, the Appeal is partly allowed. No order as to costs. Miscellaneous petitions, if any pending in this appeal shall stand closed.

DR.SHAMEEM AKTHER, J

DATED: 11-06-2018

Hsd

