

SMT JUSTICE T. RAJANI

MA CMA No.143 of 2012

JUDGMENT:

This appeal is preferred against the judgment, dated 30.12.2006, passed by the I Additional District Judge-cum-I Additional Motor Accidents Claims Tribunal, East Godavari at Rajahmundry, in O.P.No.1191 of 2004 on the grounds that the court below ought to have seen that the claimants are entitled to more compensation though the claimants have restricted their claim to certain amount; that the Tribunal failed to consider the decision of the Supreme Court in *Latha Wadhwa vs. State of Bihar*¹; and that the Tribunal ought to have granted the compensation, which was arrived at by it.

2. Heard both the counsel.

3. The attack on the judgment is only on the single aspect, that is with regard to restricting the compensation amount to the claimed amount. A perusal of the judgment shows that the Tribunal arrived at the compensation of Rs.3,77,000/-, but considering that the claim was only for Rs.2,00,000/-, it restricted the award amount to Rs.2,00,000/-.

4. This is a case of death of the deceased in a motor accident and the claimants are mother, sister, and brothers respectively, of the deceased. No error with regard to the assessment of compensation is pointed out. In order to draw support to his

¹ 2001(8) SCC 197

contention that the compensation amount can exceed the claim amount, the counsel relies on two rulings of this court reported in *Nagarapu Balaiah and others v. K.Venugopal and another*² and *Krishna Rai v. United India Insurance Company Ltd., and another*³, both of which are on the aspect of the award amount exceeding the claim amount.

5. Now the law is well settled by virtue of the decision of the Supreme Court in *Rajesh v. Rajbir Singh*⁴, wherein it was held that the compensation has to be just and it can exceed the claimed amount. This Court also in *Adam Indur Mutemma v. Rathod Peddita*⁵ held that the compensation amount can exceed claimed amount, subject to payment of court-fee. This court in similar matters while arriving at such conclusion relied on the ruling of the apex court in *Latha Wadhwa's* case (supra).

6. Hence, the award of the Tribunal is modified and the awarded amount shall be Rs.3,77,000/-, as arrived at by the Tribunal, with proportionate costs. The claimants shall pay the differential court-fee. The award shall relate back to the date of decree and the compensation awarded shall carry the interest at the rate and from the date specified by the Tribunal. The enhanced compensation shall be apportioned among the claimants in the same proportion as per the award of the Tribunal.

² 2006(2) ALD 409

³ 2006(3) ALD 624

⁴ (2013) 9 SCC 54

⁵ 2015(4) ALD 585 (LB)

Accordingly, the MACMA is allowed. As a sequel, the miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

T. RAJANI, J

July 20, 2018
LMV

