

HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.965 of 2008

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 07-12-2007 passed in M.V.O.P.No.490 of 2006 by the Motor Vehicle Accidents Claims Tribunal-cum-III Additional District and Sessions Judge (FTC), Medak (for short, the Tribunal).

2. Brief facts of the case are that on 12-04-2006, the deceased-Smt.Kunta Bagamma was traveling in an auto bearing No.AP-23-T-3129 to Andole village from Jogipet, and when she reached near Raja Rajeshwari Petrol Pump, a lorry bearing No.AP-12-T-1154 came in opposite direction in a rash and negligent manner and rammed into the auto. Due to which, the deceased received grievous injuries and after shifted to the Government Hospital, Jogipet and from there to Gandhi Hospital, Secunderabad, she died while undergoing treatment. Hence, the claimants, who are the husband and sons of the deceased, respecively, filed the claim petition claiming compensation of Rs.3,00,000/- on the ground that the deceased was aged about 45 years; used to earn Rs.6,000/- per month by doing agriculture labour contract; and all the petitioners are dependents of the deceased.

3. In the claim petition, the 2nd respondent-insurer filed its counter denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

4. After considering the oral and documentary evidence on record, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving on the part of the driver of the crime vehicle only.

5. So far as granting of compensation is concerned, the Tribunal based on the evidence of P.W.1 and Exs.A-1 to A-5, came to the conclusion that the claimants are entitled for compensation of Rs.1,75,000/- i.e. Rs.1,56,000/- towards loss of income; Rs.2,000/- towards cremation and Rs.17,000/- towards medical expenses and transportation. Accordingly, it partly allowed the claim petition granting compensation of Rs.1,75,000/- with interest at 7.5% per annum through out.

6. Dissatisfied with the quantum of compensation, the appellants/claimants filed the present appeal, seeking for enhancement of the compensation.

7. Heard the learned counsel for the appellants-claimants and the learned Standing Counsel for the 2nd respondent-insurer.

8. Learned counsel for the appellant-claimant contends that the Tribunal erred in awarding meager compensation of Rs.1,56,000/-

towards loss of income since according to the age of the deceased and considering the number of dependents, the contribution of the deceased may be taken as 1/4th towards personal deduction instead of 1/3rd. Further, as the deceased was doing as an agricultural coolie, monthly income can be taken at Rs.3,000/- instead of Rs.1500/-. He further contends that Tribunal also ignored in awarding compensation under conventional head. Therefore, the claimant is entitled for fair compensation.

9. Sri Challa Srinivasa Reddy, learned Standing Counsel for the 2nd respondent, contends that the Tribunal awarded compensation in a just and proper manner and he supported the order passed by the Tribunal.

10. As seen from the impugned order, the Tribunal has taken monthly income of the claimant at Rs.1,500/- per month. Admittedly, there is no dispute with regard to the claimant worked as agriculture coolie. So as per the decision of the Supreme Court in **Ramchandrappa Vs. Manager, Royal Sundaram Aliance Insurance Co. Ltd.**¹, wherein, the Supreme court held that in case of labour, minimum wages can be taken as Rs.150/- per day at least. However, fixing an amount of Rs.3,000/- per month as notional income of the claimant is reasonable. Considering the number of dependents of the deceased, as per the decision of the Supreme Court

¹ 2011 (6) ALD 75 (SC)

in **New India Assurance Company Limited Vs. Kalpana (Smt.)**², 1/4th deduction can be taken towards her contribution to the family, then her income comes to Rs.2,250/- per month and Rs.27,000/- per annum. Tribunal has rightly taken multiplier ‘13’ according to the age of the claimant, which is right. Hence, the loss of income in respect of the her death comes to Rs.3,51,000/- (Rs.27000 x 13).

11. In spite of that, as per the decision of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi**³, the claimants are also entitled for compensation of Rs.70,000/- towards conventional head.

12. Except the above modifications, the compensation granted under other heads remains unchanged. Hence, the total enhanced and newly awarded compensation under various heads is as follows:

Sl.No.	Name of Head	Awarded by Tribunal	Awarded by this Court
01.	Loss of income	Rs.1,56,000/-	Rs.3,51,000/-
02.	Cremation	Rs. 2,000/-	Rs. 2,000/-
03.	Medical expenditure and Transportation	Rs. 17,000/-	Rs. 17,000/-
04.	Conventional Head	Nil	Rs.70,000/-
Total		Rs.1,75,000/-	Rs.4,40,000/-

13. In the result, the appeal is allowed by enhancing the compensation awarded by the Tribunal from Rs.1,75,000/- to Rs.4,40,000/- (Rupees Four Lakhs and Forty Thousand only). The enhanced amount of compensation shall carry interest at 7.5% per

² (2007) 3 S.C.C. 538
³ 2017 (6) 170 (SC)

annum. The appellants/claimants are directed to pay Court Fee for the enhanced amount of compensation. The respondents are directed to deposit the enhanced amount along with proportionate costs and interest within two months from the date of receipt of a copy of this order. On such deposit, the appellants/claimants are permitted to withdraw the entire amount. No costs.

14. Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE T.AMARNATH GOUD

Date: 05.08.2019
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