

THE HON'BLE DR. JUSTICE D.NAGARJUN

M.A.C.M.A. No.2334 of 2009

JUDGMENT:

This appeal is filed aggrieved by the order dated 04.04.2008 in MVOP.No.598 of 2006 by the Special Judge for Trial of Offences under SC/ST (POA) Act-cum-V Additional District and Sessions Judge, Medak at Sangareddy, (for short, "the Tribunal"), wherein the Tribunal has awarded an amount of Rs.2,10,000/- under Section 166 of the Motor Vehicles Act, 1988 for the claim amount of Rs.3,50,000/-.

2. The facts in brief as can be gathered from the record are that on 10.10.2006 at 6.30 a.m., when the deceased and others were going on walk near plastic company, a lorry bearing No.AP 16 TW 4896 came from Hyderabad side on the way to Zaheerabad side dashed the deceased in high speed and rash and negligent manner due to which the deceased, Praveen Kumar, died on the spot with multiple injuries. A case in crime No.250 of 2006 has been registered for the offence under Sections 304A and 337 IPC against the driver of the lorry. The appellants being the dependants of the deceased have filed the petition seeking compensation of Rs.3,50,000/-.

3. The learned Tribunal has framed two issues and while discussing issue No.1, it is held that the driver of the crime vehicle bearing No.AP 16 TW 4896 was rash and negligent thereby accident has taken place. In respect of the compensation to be awarded, issue No.2 was taken up, wherein the learned Tribunal has found that the deceased was 20 years old and no document was shown to show that he was working in a Starchem company and ultimately the income was taken as Rs.2,000/- per month. Since the deceased was not married, the age of his mother, which was 45 years, was taken into consideration, and thereby multiplier 13 was applied. Thereby on calculating income of Rs.2,000/- per month of the deceased with the multiplier 13, out of Rs.24,000/- per month, one third was deducted towards the personal expenses of the deceased, thereby the loss of dependency of the appellants were arrived at Rs.16,000/- per annum. An amount of Rs.2,000/- was granted towards funeral expenses. In all Rs.2,10,000/- was granted of which an amount of Rs.1,05,000/- each was apportioned between appellant Nos.1 and 2.

4. Aggrieved by the same, the present appeal is filed on the following grounds:

5. Learned counsel for the appellants submitted that the compensation awarded by the Tribunal is very meager. The deceased was earning Rs.6,000/- per month by working in Starchem company.

6. Heard both sides and perused the record.

7. It is to be noted that the appellants have claimed that the deceased was earning Rs.6,000/- per month by working in Starchem company. The appellants have not examined any one from the Starchem company, failed to file any certificate to show that the deceased was earning Rs.6,000/- per month. Therefore, the Tribunal has rightly not considered the income of the deceased as Rs.6,000/- per month. However, there is no rationale in fixing the monthly income of the deceased as Rs.2,000/-.

8. Now it is settled legal preposition that for every unskilled labour where the evidence could not be produced, the minimum amount of earnings that can be taken is Rs.4,500/- per month. It can certainly be increased in case if there is any satisfactory evidence. Learned Tribunal while observing that the appellants have failed to produce any evidence to show that the deceased was earning Rs.6,000/- per month, considering the

circumstances, granted Rs.2,000/- per month instead of Rs.4,500/- per month. Hence, the finding of the learned Tribunal is modified to Rs.4,500/- per month.

9. The Tribunal has also granted an amount of Rs.2,000/- towards love and affection, transportation and funeral expenses. As per the judgment delivered by the Hon'ble Supreme Court in the case of **National Insurance Co. Ltd vs. Pranay Sethi**¹ the amount that can be granted towards funeral expenses, loss of estate and consortium is Rs.70,000/-. Therefore, the said amount of Rs.70,000/- is granted instead of Rs.2,000/-. Since the deceased was not married, the personal expenditure can rightly be deducted @ one third out of the total income.

10. Considering the facts and circumstances of the case, this Court is of the opinion that the Tribunal was very conservative in awarding compensation. Therefore, the compensation awarded by the Tribunal is enhanced as under:

1. The income of the deceased taken by the Tribunal at Rs.2,000/- per month has been enhanced to Rs.4,500/- per month and as such the loss of earnings of the deceased would come to Rs.7,02,000/- (Rs.4,500 x 12 x 13) and the net loss of earnings would work out

¹ (2017) 16 SCC 680

to Rs.4,68,000/- after deducting one third towards his personal expenses.

2. In respect of loss of estate, love and affection, transportation charges and funeral expenses the amount of Rs.2,000/- awarded by the Tribunal is enhanced to Rs.70,000/- (Rupees Seventy thousand only).
3. In all the appellants/claimants are entitled to the total compensation of Rs.5,38,000/- (Rupees Five lakhs thirty eight thousands only) instead of Rs.2,10,000/- awarded by the Tribunal. So far as the rate of interest awarded by the Tribunal is concerned, the same remains as it is.

With the above, the appeal is allowed in part.

Miscellaneous applications, if any, shall stand closed.

DR. D.NAGARJUN, J

Date: 07.09.2022
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