

THE HON'BLE SMT. JUSTICE P.MADHAVI DEVI

M.A.C.M.A. No.9 of 2016

JUDGMENT:

This appeal is filed by the dependants of the deceased/Smt.Mary, who died in an accident that occurred on 05.10.2007, seeking enhancement of compensation awarded by the II Additional District Judge, Ranga Reddy District at L.B.Nagar, as per orders dated 20.04.2012 passed in O.P.No.656 of 2008. The 1st appellant is the husband and appellants No.2 and 3 are the daughters of the deceased. The appellants/petitioners claimed a compensation of Rs.8,00,000/-, whereas the Tribunal has granted only Rs.4,01,000/- as compensation.

2. Heard. Perused the record.

3. It is submitted by learned counsel for the appellants/petitioners that the deceased was a tailor and also a pastor, therefore, the claimants claimed monthly earnings of the deceased at Rs.6,000/-, whereas, the Tribunal has taken the monthly earnings of the deceased at Rs.3,000/-. Learned counsel for the

claimants/appellants relied on a decision rendered in **Kirti and another Vs. Oriental Insurance Company Limited**¹ wherein the notional income of a housewife has been adopted at Rs.5,500/- per month.

4. After considering the rival contentions and having regard to the fact that since the deceased herein is not a housewife and admittedly she was a tailor and hence, it is reasonable to fix her monthly earnings at Rs.5,000/-. Since the family members of the deceased are three, 1/3rd of her earnings have to be deducted towards personal expenditure. Since the deceased was aged about 40 years, as per post-mortem report / Ex/A2, the multiplier to be applied to this case is admittedly 15, whereas, the lower Court has taken it as 16. The claimant No.1 being the husband is entitled to spousal consortium of Rs.40,000/- with 10% enhancement thereon (i.e Rs.44,000/-). Claimants No.2 and 3 being the children of the deceased are eligible for parental consortium of Rs.40,000/- each

¹ (2021) 2 Supreme Court Cases 166

with 10% enhancement thereon (i.e Rs.44,000/- + Rs.44,000/-). As held by Hon'ble Supreme Court in the case between **National Insurance Co. Ltd. Vs. Pranay Sethi**² the claimants are also entitled for funeral expenses of Rs.15,000/- with 10% enhancement thereon (i.e. Rs.16,500/-), loss of estate at Rs.15,000/-with 10% enhancement thereon (i.e. Rs.16,500/-) and transportation charges at Rs.15,000/-with 10% enhancement thereon (i.e. Rs.16,500/-). Accordingly, the loss of earnings of the deceased are to be computed. With the above directions the respondents are directed to make the payment to the petitioners as per the ratio made by the tribunal below within a period of 30 days from the date of receipt of the copy of this order with interest at the rate of 7.5% per annum on the difference of amount that is to be paid.

5. In the light of the above mentioned discussion, the appellants are entitled to the following amounts:

	HEAD	COMPENSATION
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² Special Leave Petition (Civil) No.25590 of 2014

		AWARDED
1	Income	Rs.5,000/- per month
2	Multiplier	15
3	Personal expenditure	1/3 rd
4	Future prospects	--
5	Loss of earnings	Rs.5,000/- (X) 15 Multiplier (X) 12 months (-) 1/3 rd personal expenditure = Rs.6,00,000/-
6	Funeral expenses	Rs.15,000/- (+) 10% = Rs.16,500/-
7	Loss of estate	Rs.15,000/- (+) 10% = Rs.16,500/-
8	Spousal consortium	Rs.40,000/- (+) 10% = Rs.44,000/-
9	Parental consortium	Rs.80,000/- (+) 10% = Rs.88,000/- (To petitioners No.2 and 3 children of the deceased)
10	Transportation	Rs.15,000/- (+) 10% = Rs.16,500/-
	Total Compensation	Rs.7,81,500/- along with interest @ 7.5%per annum from the date of filing of the claim petition till realization.

6. In the result, the appeal is partly allowed. The award dt.20.04.2012 in O.P.No.656 of 2008 on the file of the II Additional District Judge, Ranga Reddy District at L.B.Nagar is modified by awarding a total compensation of

Rs.7,81,500/- (Rupees seven lakhs eighty one thousand and five hundred only) along with interest @ 7.5%per annum from the date of filing of the claim petition till realization against both the respondents. The 2nd respondent is directed to deposit the compensation amount within 90 days from the date of receipt of a copy of this order. On such deposit, the appellants are permitted to withdraw the same without furnishing any security as per the following shares :

Appellant No.1 : Rs.1,96,838/-.

Appellant No.2 : Rs,2,92,331/-

Appellant No.3 : Rs,2,92,331/-

7. In the circumstances of the case there shall be no order as to the costs.

8. Pending miscellaneous petitions, if any, in this MACMA shall stands closed.

JUSTICE P.MADHAVI DEVI

Date: 16.06.2022

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