
(1996) 01 AP CK 0022

In the Andhra Pradesh High Court

Case No : A.A.O. No"s. 2016 of 1989 and 87 of 1990

Avula Parvathamma and Others

APPELLANT

Vs

The New India Assurance Co. Ltd.

RESPONDENT

Date of Decision : 30-01-1996

Acts Referred:

Motor Vehicles Act, 1939 — Section 110B, 110D

Citation : (1996) 2 ALT 11

Hon'ble Judges : Neelam Sanjiva Reddy, J

Bench : Single Bench

Advocate : C. Malla Reddy, in CMA 2016/89, Koka Subba Rao and S.V.R.S. Somayajulu, in CMA 87/90, for the Appellant; Koka Subba Rao, S.V.R.S. Somayajulu, in CMA 2016/89 and C. Malla Reddy in CMA 87/90, for the Respondent

Judgement

Neelam Sanjiva Reddy, J.—These two appeals are directed against the order dated 18-9-1989 of the Motor Accidents Claims Tribunal (District Judge), Mahabubnagar.

2. The facts culminating in these appeals briefly stated are that Avula Krishna Rao, aged about 21 years was working as police constable at Mohammadabad Police Station, Ranga Reddy district and his monthly emoluments were Rs. 807/-. On 6-2-3 986 at about 7.30 a.m., he along with his goods of two bags of rice of 100 kgs., was traveling in the lorry CNG 4151 after paying Rs. 25/- towards transport charges. The lorry met with an accident due to actionable negligence of the driver resulting in multiple injuries to Krishna Rao and his consequent death.

3. The mother and sister of the deceased, aged about 55 years and 19 years respectively filed the above O.P. claiming a total compensation of Rs. 1,00,000/- against the driver-cum-owner and the insurer of the lorry CNG 4151.

4. The Tribunal, after considering the evidence on record, awarded a total compensation of Rs. 36,500/- and apportioned an amount of Rs. 25,000/- to the

first petitioner and Rs. 11,500/- to the second petitioner with interest at 12% per annum from the date of petition till payment. The insurer preferred C.M.A. No.87 of 1990 and the claimants filed C.M.A. No. 2016 of 1989.

5. Learned counsel for the insurer submits that the Tribunal erred in awarding compensation as the transport of two bags of rice by the deceased cannot be considered as travelling with his goods. He relied on the decision of this Court in Oriental Fire and General Insurance Company Ltd. Vs. Bondili Sitharam Singh and others, . Admittedly, the decision relied on by the learned Counsel does not give the quantity of packages that were carried by the deceased therein. On the facts and circumstances of that case, those packages were not considered as goods. But, in the instant case, two bags of rice of about 100 Kgs cannot be said small packages carried by the deceased. I am of the view that two bags of rice of that quantity have to be viewed as goods only and that the deceased was travelling along with his goods. Hence, I do not find any merit in this plea of the insurer-appellant.

6. Learned counsel for the claimants submits that the Tribunal erred in its findings regarding loss of dependency. Learned counsel of both sides admit on the basis of the evidence that the monthly income of the deceased was Rs. 807/- and considering the age of the mother of the deceased, the appropriate multiplier is 4.27 for capitalizing the loss of dependency by taking two-thirds of the annual income of the deceased as multiplicand. Loss of dependency calculated accordingly comes to Rs. 27,560/- as against Rs. 21,000/- awarded by the Tribunal on this count.

7. In the result, the appeal C.M.A. No. 87 of 1990 preferred by the insurer is dismissed with costs and the appeal C.M.A. No. 2016 of 1989 preferred by the claimants 1 and 2 is partly allowed enhancing the compensation towards loss of dependency from Rs. 21,000/- to Rs. 27,560/- with interest at the rate of 12% per annum from the date of petition till payment, and with proportionate costs. The compensation awarded on other counts is not interfered with. The enhanced amount shall be paid to the first petitioner-mother only. The amounts shall be deposited/paid to the claimants as per the guidelines detailed by the Supreme Court in General Manager, Kerala State Road Transport Corporation, Trivandrum Vs. Mrs. Susamma Thomas and others, .