
(2001) 10 AP CK 0058
In the Andhra Pradesh High Court
Case No : A.A.O. No. 262 of 1998

G. Lakshmamma and Others

APPELLANT

Vs

Navatha Road Transport and Another

RESPONDENT

Date of Decision : 12-10-2001

Acts Referred:

Citation : (2002) 2 ACC 214 : (2002) ACJ 1702 : (2002) 2 ALT 39

Hon'ble Judges : N.V. Ramana, J

Bench : Single Bench

Advocate : K. Rathangapani Reddy, for the Appellant; A. Veeraswamy, for the Respondent

Final Decision : Allowed

Judgement

N.V. Ramana, J.—This appeal arises out of the order and decree in O.P. 594/1994 passed by the Motor Accidents Claims Tribunal, Kurnool. The petitioners in the O.P. has filed appeal dissatisfied with the quantum of compensation awarded by the tribunal.

2. Since the scope of this appeal is a limited one, viz., whether the compensation granted by the tribunal calls for enhancement or not, is redundant to narrate the factual aspects, which are not in dispute.

3. The main contention of the learned counsel for the appellants in this appeal is that the tribunal erred in fixing the loss of dependency of the appellants due to the death of the deceased at a low rate. According to the learned Counsel for the appellants, the tribunal has calculated the loss of dependency/pecuniary damages on the basis that Rs. 500/- to Rs. 600/- per month towards supervisory charges is the only loss to the appellants. On that basis, the tribunal has awarded a sum of Rs. 90,000 towards loss of dependency to the family, and another sum of Rs. 5,000/- towards loss of consortium to the wife of the deceased. It is the contention of the learned Counsel for the appellants that as on the date of his death in the accident the deceased was owning Ac.16-00 and

getting Rs. 60,000 to Rs. 70,000/- per year from that land and so the appellants are entitled to more compensation than the one awarded by the tribunal.

4. On behalf of the respondent/ Insurance Company, it is contended that there is no evidence to show that the deceased was owning Ac.16-00 of land as on the date of his death in the accident. It is contended that at the time of his death in the accident, the deceased was owning Ac.9.56 cents of land only, as could be seen from Ex.A-6. He, therefore, contended that the compensation granted by the tribunal is just and proper and it does not call for any enhancement in this appeal.

5. I have perused the evidence on record and the order under appeal. In this case, the determination of compensation is made on the ground that the death of the deceased can be substituted by engaging a farm-servant, to supervise the cultivation of the lands. Fixing the monthly remuneration of the farm-servant as Rs. 500/-, the tribunal has arrived at the pecuniary damages/loss of dependency as Rs. 90,000/- and awarding a sum of Rs. 5,000/- to the wife of the deceased towards loss of consortium, the tribunal has awarded a total compensation of Rs. 95,000/-.

6. The deceased is an agriculturist. The process adopted by the tribunal in arriving at the pecuniary damages/loss of dependency is not correct, more so, in a claim for compensation of this nature.

7. As long back as in 1988, a learned single Judge of this Court in *D. Vinodu v. B. Baswa Raju*, 1988 (2) ALT 46 : AIR 1988 A.P. 227 while considering the claim for grant of compensation in case of death of an agriculturist in a motor vehicle accident, has categorically held:

"In the case of death of an agriculturist owning agricultural land, the value of the supervisory services of the deceased have to be first estimated. This will not be merely equivalent to the value of the services of a farm-servant or a manager of the property employed for that purpose. It will be more than that because an owner-manager takes extra care in increasing the income year by year and also in increasing the value of the property.

After thus estimating the "special" value of the supervisory services of an "owner-manager", a deduction is to be made in respect of the money the deceased would have spent for himself out of such sum and then the annual contribution to the family is to be arrived at. Then an actuarial multiplier suitable to the age of the deceased has to be applied. To the said sum may be added such sums towards loss of consortium and compensation for loss of expectation of life and pain and suffering.

It is not permissible to say that no amount need be awarded towards the loss to the dependency merely because the corpus of the agricultural land is left intact for the dependents. When in case of death of non-cultivators who have other properties, the properties remain intact and still damages are awarded, there is

no reason why on death of cultivators who have agricultural land, a negative attitude should be taken. The general practice of making automatic deductions for the value of the properties inherited has fallen into desuetude. The value of the accelerated receipt of property cannot according to the Privy Council be treated as a total or partial equivalent of the loss to the dependency inasmuch as the said acceleration has to be set off against the loss of savings of the deceased to the family. At the other extreme, it is equally not permissible to capitalise the income from the land by a number of years' purchase."

8. In this case, the tribunal has wrongly calculated the loss of dependency by just awarding compensation towards the salary of the farm-servant. But, the facts are otherwise. As could be seen from the evidence on record, the appellants have established that the deceased was owning Ac.9.56 cents of land as on the date of his death in the accident, as could be seen from Ex.A-6, solvency certificate. Of course, so far as the other landed property of the deceased, there is no other documentary evidence adduced by the appellants.

9. It must be noted that a farm-servant cannot substitute the death of an agriculturist. The agriculturist will take a lot of care and personal interest to get more income from his land by way of personal cultivation. Considering the evidence on record, the background of the family of the appellants and following the above said judgment of the learned single Judge of this Court in *D. Vinodu v. B. Baswa Raju* (supra), I feel it proper and just to fix the monthly contribution of the deceased to his family as Rs. 1,000/-. Even if we apply the multiplier of "15", as is applied by the tribunal, the pecuniary damages or loss of dependency comes to Rs. 1,80,000/-(i.e., Rs. 1,000 x 12 x 15). In addition to this, the appellants would be entitled to a further sum of Rs. 25,000/- as non-pecuniary damages (including the sum of Rs. 5,000/- granted to the wife of the deceased towards loss of consortium), as per the decision of the Supreme Court in *P.C. Kakar Vs. Commandant, Military Hospital, Trimalgiri and Others*, . Thus, the compensation awardable to the appellants comes to Rs. 2,05,000/-. However, as the claim in the O.P. is for Rs. 2,00,000/- only, the appellants are entitled to a total compensation of Rs. 2,00,000/-.

10. In the result, the appeal is allowed enhancing the compensation from Rs. 95,000/- to Rs. 2,00,000/- (including the sum of Rs. 5,000/- awarded to the wife of the deceased towards loss of consortium). The appellants are entitled to interest at 12% p.a., on the enhanced compensation amount of Rs. 1,05,000/- from the date of filing of the O.P. till realisation. The apportionment of the enhanced compensation shall be in the same ratio as is fixed by the tribunal while apportioning compensation granted by it. Respondents 1 and 2 are jointly and severally liable to pay the entire compensation amount to the appellants. The other directions of the tribunal with regard to deposit of minors' shares in the compensation shall remain unaltered. There shall, however, be no order as to costs in this appeal