

(2022) 07 TEL CK 0069

In the Telangana High Court

Case No : Motor Accident Civil Miscellaneous Appeal No. 1366 Of 2015

Gousia Begum

APPELLANT

Vs

N.Nageshwar Rao,

RESPONDENT

Date of Decision : 27-07-2022

Acts Referred:

Motor Vehicles Act, 1988 — Section 166

Citation : (2022) 07 TEL CK 0069

Hon'ble Judges : G. Anupama Chakravarthy, J

Bench : Single Bench

Advocate : Lakkadi Dayaker Reddy, Kalpana Ekbote

Final Decision : Partly Allowed

Judgement

1. The appeal is arising out of the order dated 09.02.2015, in MVOP.No.67 of 2010 on the file of Motor Accident Claims Tribunal-cum-Principal District Judge, Adilabad.
2. For the sake of convenience, the parties are referred to as arrayed in the OP.
3. The appeal is filed by the claimants seeking enhancement of compensation from Rs.4,83,000/- to Rs.6,00,000/-. The O.P. is filed by the claimants before the Tribunal under Section 166 of the Motor Vehicles Act, claiming compensation of Rs.6,00,000/- for the death of the deceased, named Shaik Jaheer in the accident which occurred on 02.07.2009 near Mavala Nursery due to the dash of the Lorry bearing No.AP-16-TW-0662. The claimants 1 and 2 are the wives and the 3rd claimant is the mother of the deceased, respectively.
4. As the Award is challenged only with respect to the quantum of compensation granted by the Tribunal, the appreciation would be only on that aspect.
5. Heard both sides and perused the record.
6. It is contended by the learned counsel for the claimants that the Tribunal has erred in not awarding proper compensation under the conventional heads and

also in not considering the proper multiplier, age and income of the deceased and prayed to grant appropriate compensation basing on the evidence available on record.

7. It is pertinent to mention that the 1st claimant was examined as PW-1 and one Syed Taj, who was said to be an eyewitness to the accident, was examined as PW-2. Exs.A-1 to A-3 are the FIR, inquest panchanama and postmortem report of the deceased. The oral and documentary evidence before the Tribunal only disclose about the manner of the accident and the rash and negligent act of the driver of the 1st respondent-Lorry.

8. It is the specific finding of the Tribunal that there is no documentary evidence as to the income and age of the deceased. The age of the deceased was taken as 27 years taking into consideration Exs.A-2 and A-3 and the income is fixed as Rs.3,000/- per month basing on the Rulings of the Apex Court in Smt. Sarla Verma v. Delhi Transport Corporation & another (2009) 6 SCC 121.

9. Thus, the Tribunal has awarded compensation under the following heads:

1.

Loss of dependency

Rs.4,08,000/-

2.

Loss of consortium

Rs.25,000/-

3.

Loss of love and affection

Rs.20,000/-

4.

Loss of estate

Rs.20,000/-

5.

Transportation & Funeral expenses

Rs.10,000/-

TOTAL

Rs.4,83,000/-

10. The accident took place in the year 2009. As per the ratio of the Apex Court, in Ramachandrappa v. Royal Sundaram Alliance Insurance Co. Ltd. (2011) 13

SCC 236, the notional income of the deceased can be taken as Rs.4,500/- presuming the deceased as a coolie even in the absence of any oral or documentary evidence.

11. As stated supra, the age of the deceased is 27 years as on the date of the accident and the income of the deceased is fixed as Rs.4,500/- per month. As per the judgment of the Hon'ble Supreme Court in Sarla Verma's case (1 supra), the multiplier applicable to the age group of 26 to 30 years is '17'. The annual income of the deceased would come to Rs.54,000/-. If 40% future prospects is added, it would come to Rs.75,600/- (Rs.54,000 + Rs.21,600). The claimants are three in number and if 1/3rd is deducted towards personal expenses of the deceased, his contribution to the family would come to Rs.50,400/- (75,600-25,200). If multiplier '17' is applied, the loss of dependency would come to Rs.8,56,800/-.

12. Thus, the claimants are entitled to compensation under the following heads:

1.

Loss of dependency

Rs.8,56,800/-

2.

Funeral expenses

Rs.15,000/-

3.

Loss of estate

RS.15,000/-

4.

Consortium (3 claimants @ Rs.40,000/- each)

Rs.1,20,000/-

TOTAL

Rs.10,06,800/-

13. Accordingly, the appeal is partly allowed, awarding compensation of Rs.10,06,800/- to the claimants with costs and interest @ 7.5% per annum from the date of petition till the date of realisation, payable by both the respondents jointly and severally within two months from the date of receipt of this order and all the claimants are equally entitled to the said compensation and they are permitted to withdraw their respective shares with costs and interest, as the accident occurred in the year 2009.

Pending miscellaneous applications, if any, shall stand closed.