
(2022) 08 TEL CK 0060

In the Telangana High Court

Case No : Motor Accident Civil Miscellaneous Appeal No. 1471 Of 2017

G.Ramulu 2 Ors

APPELLANT

Vs

Mahipal Reddy Kolan Anr

RESPONDENT

Date of Decision : 24-08-2022

Acts Referred:

Citation : (2022) 08 TEL CK 0060

Hon'ble Judges : G. Anupama Chakravarthy, J

Bench : Single Bench

Advocate : Jagathpal Reddy, Kasi Reddy

Final Decision : Allowed

Judgement

1. This appeal is filed by the claimants being aggrieved by the order and decree dated 15.11.2016 in M.V.O.P.No.2792 of 2013 on the file of XIII Additional Chief Judge (FTC), City Civil Court, Secunderabad, for the death of the deceased, namely, Smt.Kistamma, who died in the accident which occurred on 09.10.2013.
2. For the sake of convenience, the parties are referred to as arrayed in the O.P.
3. Initially, the claim was made for Rs.10,00,000/- and the Tribunal awarded an amount of Rs.6,17,000/-. Since the appeal is filed only for enhancement of compensation, the appreciation in this appeal would be only with respect to that aspect.
4. Heard learned counsel for both the parties and perused the record.
5. It is contended by the learned counsel for the claimants that the deceased was aged about 32 years at the time of the accident and used to earn Rs.10,000/- per month as daily wage labour in Mandal office. The claimants are the husband and children of the deceased and due to the untimely death of deceased, the family lost love and affection as well as the financial income.
6. On the other hand, learned counsel for the respondents contended that the

Tribunal has granted adequate compensation to the claimants, and therefore, there is no necessity to interfere with the orders of the Tribunal and prayed to dismiss the O.P.

7. PW-1 is the husband of the deceased and his oral evidence disclose about the accident which took place on 09.10.2016 at 5.30 p.m. and also about the earnings of the deceased as daily wage labour. But, there is no oral corroborating evidence or documentary evidence before the Court as to the income of the deceased.

8. The Tribunal has granted compensation to the claimants under the following heads:

1.

Loss of dependency

Rs.5,12,000/-

2.

Loss of Estate

Rs.25,000/-

3.

Loss of consortium

Rs.50,000/-

4.

Funeral expenses

Rs.30,000/-

TOTAL

Rs.6,17,000/-

9. As per the proposition laid down by the Apex Court in a judgment of the year 2011 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/- per month even in the absence of evidence to that effect. Admittedly, the accident in this case occurred in the year 2013 and considering the cost of living in the year of 2013, the notional income of a labour can be assessed as Rs.200/- per day, which comes to Rs.6,000/- per month.

10. Admittedly, the deceased was aged 32 years as on the date of the accident and the income of the deceased is fixed as Rs.6,000/-per month as a labour. As per the judgment of the Hon'ble Supreme Court in Smt.Sarla Verma v. Delhi Transport Corporation & another (2009) 6 SCC 121, the multiplier applicable is

'16' for the age group of 31 to 35 years. The annual income of the deceased is Rs.72,000/- (Rs.6,000 X 12). If 40% is added towards future prospects, it would come to Rs.1,00,800/- (Rs.72,000 + Rs.28,800). The claimants in this case are the husband and children of the deceased, who are three in number. As per the judgment in Sarla Verma's case (2 supra), 1/3rd is to be deducted towards personal expenses of deceased. Thus, his contribution to the family would come to Rs.67,200/- (Rs.1,00,800 - Rs.33,600). If the multiplier '16' is applied, it would come to Rs.10,75,200/- (Rs.67,200 X 16). As per the proposition laid down by the Apex Court in National Insurance Co. Ltd. v. Pranay Sethi & others³, consortium @ Rs.40,000/- is to be granted to the children and husband of the deceased and the claimants are also entitled for compensation towards funeral expenses and loss of estate to a tune of Rs.15,000/-each.

11. Thus, the claimants are entitled to compensation under the following heads;

1.

Loss of dependency

-

Rs.10,75,200/-

2.

Funeral expenses

-

Rs.15,000/-

3.

Consortium (for children & husband)

-

Rs.1,20,000/-

4.

Loss of Estate

-

Rs.15,000/-

TOTAL

-

Rs.12,25,200/-

12. Accordingly, the appeal is allowed, granting a total compensation of Rs.12,25,200/- with costs and interest at the rate of 7.5% per annum from the

date of petition till the date of realization, payable by respondents 1 and 2 jointly and severally, within two months from the date of receipt of this order. Claimant No.1 being the husband of the deceased, is entitled to Rs.2,25,200/-and Claimant Nos.2 and 3 being the minor children of the deceased, are entitled to Rs.5,00,000/- each. The 1st claimant is entitled to withdraw his share of compensation along with costs and interest and the shares of the 2nd and 3rd claimants shall be kept in fixed deposits in any Nationalised Bank till they attain majority.

Pending miscellaneous applications, if any, shall stand closed.