

(2006) 10 AP CK 0079
In the Andhra Pradesh High Court
Case No : CMA No. 815 of 1999

K. Pratap Reddy and Others	Vs	APPELLANT
Dr. P.V.S. Ramababu and Another		RESPONDENT

Date of Decision : 10-10-2006

Acts Referred:

Citation : (2007) 1 ALD 380 : (2007) 3 ALT 9

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : L. Prabhakar Reddy, for the Appellant; V. Ajaya Kumar, for the Respondent

Final Decision : Allowed

Judgement

L. Narasimha Reddy, J.—One Mr. K, Tirupati Reddy, son of appellants 1 and 2 and brother of appellant No. 3, was said to have been employed in Manikchand Gutka Company, on a monthly salary of Rs. 2,000/-. On 9-5-1995, a Scooter bearing No. AP-28A-3852, owned by the first respondent and insured with the second respondent, hit him, while he was proceeding on a bicycle, wherein he sustained grievous injuries and died while undergoing treatment. The appellants filed O.P. No. 797 of 1995 before the Motor Accident Claims Tribunal-cum-District Judge, Ranga Reddy District, claiming a sum of Rs. 1,20,000/- as compensation. It was pleaded that the deceased was aged 23 years and that the accident occurred, on account of the rash and negligent driving on the part of the driver of the Scooter.

2. The first respondent denied his liability to pay the compensation, on the ground that the vehicle was insured with the second respondent-Insurance Company. The latter filed a counter-affidavit, disputing the occurrence of accident and involvement of the Scooter in it. The appellants were put to strict proof of the facts pleaded by them. Through the order, dated 7-10-1998, the Tribunal awarded a sum of Rs. 61,800/- as compensation, together with interest at the rate of 12% per annum. The appellants seek enhancement of the same.

3. Sri L. Prabhakar Reddy, the learned Counsel for the appellants submits that the monthly salary of the deceased was taken at a meager figure by the Tribunal and that an improper multiplier was applied. He further contends that no amount was awarded towards funeral expenses.

4. Sri V. Ajay Kumar, the learned Counsel for the second respondent-Insurance Company, on the other hand, submits that hardly there existed any evidence, as to the income of the deceased, and in that view of the matter, the Tribunal has taken his monthly income at Rs. 1,000/-. He further contends that the Tribunal relied upon the judgment of this Court in Bhagwandas Vs. Mohd. Arif, , for choosing the multiplier and that the appellants are not entitled for any enhancement.

5. The death of the deceased in the accident was proved beyond any pale of doubt and the finding recorded by the Tribunal, to the effect that the driver of the Scooter was responsible for it, remained unchallenged.

6. The appellants pleaded that the deceased was employed with Manikchand Gutka Company and that he was earning a sum of Rs. 2,000/- per month. Though the Tribunal doubted their statement that the deceased was employed, it ultimately accepted the same, in view of the averment in the First Information Report. However it took the monthly emoluments of the deceased at Rs. 1,000/- and thereafter, deducted one-third towards his personal expenditure.

7. Even assuming that the deceased was unemployed and there was no evidence as to the nature of his income, Schedule-II to the Motor Vehicles Act, 1988 (for short "the Act") mandates that in such cases, the income of the individual must be taken at Rs. 15,000/- per annum and one-third must be deducted towards the personal expenditure. If so done, the annual contribution of the deceased to his family would come to Rs. 10,000/-.

8. The deceased was aged 23 years. Since he was not married, the age of the younger of his parents has to be taken into account, in the matter of selecting multiplier. The age of the second appellant i.e., mother of the deceased, is 50 years. The Tribunal adopted the multiplier "6" on the basis of the judgment of this Court in Bhagwan Das's case (supra). When the annual contribution, on account of the death of the deceased was less than Rs. 40,000/-, the Tribunal ought to have adopted the multiplier, as per Schedule-II to the Act. According to that, the multiplier would be "11", for a person of the age of 50 years. Therefore, the loss of dependency, on account of the death of deceased would come to Rs. 1,10,000/-.

9. The Tribunal awarded a sum of Rs. 15,000/- towards loss of estate. According to Schedule-II to the Act, the loss of estate can be awarded only at a sum of Rs. 2,500/-. To that extent, it needs to be revised. No amount was awarded towards funeral expenses and according to Schedule-II to the Act, a sum of Rs. 2,000/- can be awarded.

10. Therefore, the total compensation payable to the appellants would come to Rs. 1,14,500/-. Out of the said amount, appellants 1 and 2 shall be entitled to a sum of Rs. 45,000/- each and the third appellant for a sum of Rs. 24,500/-.

11. The Tribunal awarded the interest at the rate of 12% per annum. In the matters of such nature, the Supreme Court and this Court are uniformly awarding interest at the rate of 7.5%. Hence, the enhanced amount of compensation shall carry interest at the rate of 7.5% per annum.

12. The civil miscellaneous appeal is, accordingly, allowed. There shall be no order as to costs.