
(1995) 11 AP CK 0039
In the Andhra Pradesh High Court
Case No : C.M.A. No. 112 of 1994

K.S. Sudhakaran and Others

APPELLANT

Vs

S. Narasimha Reddy and Others

RESPONDENT

Date of Decision : 13-11-1995

Acts Referred:

Motor Vehicles Act, 1988 — Section 166

Citation : (1996) 2 ACC 205 : (1995) 3 ALT 673

Hon'ble Judges : Motilal B. Naik, J;A. Gopal Rao, J

Bench : Division Bench

Advocate : K. Venkata Ramaiah, for the Appellant; K. Ashok Rama Rao, for the Respondent

Judgement

Motilal B. Naik, J.—This Civil Miscellaneous Appeal is directed against the judgment and decree in O.P.No.52 of 1992 on the file of the Additional Chief Judge, City Civil Court, Secunderabad.

2. The Appellants are the claimants in O.P.No. 52/1992. The first appellant is the husband of late Stella Shantha Kumari. Appellant Nos. 2 and 3 are the minor son and minor daughter born out of the wedlock between the first appellant and late Stella Shantha Kumari.

3. It is the case of the appellants that the deceased Smt. Stella Shantha Kumari was working as a Teacher in Bharatiya Vidya Bhavan, Basheerabagh, Hyderabad. On the date of the accident, she was drawing a monthly salary of Rs. 2,500/-, aged about 39 years and was quite hale and healthy. It is further stated that the deceased was coming from Begumpet Police lines to Secunderabad Railway Station on a scooter bearing No.AHU 5516 along with her husband-first appellant herein around 6-40 PM. After crossing Paradis X Roads, an auto-rickshaw bearing No. AP/II-T/578 belonging to the first respondent driven by the second respondent came with high speed and dashed the rear side of the scooter and sped away. As a result of which, the first appellant and the deceased fell down on the road. The deceased sustained head injury while the first appellant received

minor injuries and were later on shifted to hospital. The hospital authorities declared that said Stella Shantha Kumari succumbed to the injuries while she was undergoing treatment.

4. On account of the death of Stella Shantha Kumar due to the rash and negligent driving of the vehicle by the 2nd respondent which belongs to the first respondent, the first appellant being the husband of late Stella Shantha Kumari and appellant Nos. 2 and 3 being minor son and daughter, laid a claim seeking compensation for an amount of Rs. 8,10,000/- u/s 166 of the Motor Vehicles Act, 1988.

5. The claim petition was, however, opposed by the respondent No. 3, inter alia, contending that the vehicle in question was not insured with the insurance company - third respondent. It is also contended that the accident is not attributable to the first and second respondents alone as there was a contributory negligence on the part of the first appellant also who was driving the scooter.

6. In order to sustain their claim, the claimants led evidence by examining P.Ws. 1 to 4 and got marked Exs. A.I to A.9. On behalf of the respondents neither any oral evidence was adduced nor any documents were marked before the Tribunal.

7. On the basis of the oral and documentary evidence filed by the claimants, the Tribunal awarded an amount of Rs. 2,20,000/- with 12% interest from the date of filing of the petition i.e. 12-3-1992 along with costs while taking 13 as relevant multiplier. As against the award of the said amount, the present Civil Miscellaneous Appeal is filed by the claimants.

8. Sri K. Venkata Ramaiah, learned counsel appearing on behalf of the claimants has primarily contended before us that awarding of compensation basing on the multiplier 13 is improper, inasmuch as the age of the deceased at the time of accident was only 39 years. It is further contended that in all probability, the multiplier should have been 21 as the deceased was working as teacher and she would have retired after attaining the age of 60 years, and therefore, 21 is the appropriate multiplier. Sri Venkata Ramaiah, in support of his contention, has taken us to a decision in Hardeo Kaur and others Vs. Rajasthan State Transport Corporation and another, . Placing reliance on the above decision, it is stated by Sri Venkata Ramaiah that the appropriate multiplier should have been applied taking into account the proximity of the age of the deceased. He therefore, seeks modification of the award while applying 21 as relevant multiplier. It is also contended that the Tribunal has wrongly deducted Rs. 1,200/- towards personal expenses of the deceased. In all probability, such deduction shall be 1/3rd from the salary of the deceased which shall be around Rs. 830/- per month. Sri Venkata Ramaiah has further urged before us that the Tribunal has failed to award just compensation.

9. The learned counsel for the third respondent-Insurance Company, on the contrary has stated that the multiplier as applied by the Tribunal is well accepted

by the Courts including that of the Supreme Court and there cannot be any change in the multiplier applied by the Tribunal.

10. We have heard both the counsel at length. It is true that the deceased being a teacher probably would have retired at the age of 60 years. It is equally true that the deceased Smt. Stella Shantha Kumari was working as a teacher and was earning Rs. 2,500/- per month and was aged about 39 years as on the date of the accident. The intention of the Legislature in making room for awarding compensation under M.V. Act is to render suitable assistance to the immediate dependent members of the family on the death of the sole bread earner. Intention, we understand, is very clear, to render appropriate assistance to the helpless family members who are desperately looking forward for some assistance at the stage where the life of their bread earner is taken away on account of the accident. The Courts have adopted some device for awarding just and reasonable compensation. In the absence of any proper mechanism, a probable procedure has to be followed, which is known as the "multiplier method." This method has now well been accepted by the Supreme Court also as is evident from the latest decision in General Manager, Kerala State Road Transport Corporation, Trivandrum Vs. Mrs. Susamma Thomas and others, .

11. The endeavour of Sri K. Venkata Ramaiah, counsel for the appellants is that the award of compensation shall be in accordance with the decision of the Supreme Court cited (1) Supra and shall not be in accordance with multiplier method. He further stated that the Tribunals have to grant appropriate compensation taking into account the age of the person at the time of accident and his/her retirement age. This aspect, in our view, has also been considered by the Supreme Court in the decision cited (2) supra. The Supreme Court in the said decision has made the following observation:

"We are aware that some decisions of High Courts and of this Court as well have arrived at compensation on some such basis. These decisions cannot be said to have laid down a settled principle. They are merely instances of particular awards in individual cases. The proper method of computation is the multiplier method. Any departure, except in exceptional and extraordinary cases would introduce inconsistency of principle, lack of uniformity and an element of predictability for the assessment of compensation."

We are clear in our minds as to the provisions of Section 166 of the M.V. Act which enables the Tribunals to award just and reasonable compensation. In the absence of any scientific method, the generally accepted multiplier method, in our view, is appropriate while granting compensation. The compensation awarded is in lumpsum. This lumpsum amount if invested properly, fetches dividend/interest. With the interest received, the dependents can make a reasonable living. After all, we must realise the uncertainty in one's life span and therefore, the multiplier method could be considered as a better device for awarding reasonable compensation. In exceptional cases, it could be open to the Tribunal to apply a higher multiplier and award higher compensation. In our view,

this is not an exceptional and extraordinary case to deviate from the multiplier method being followed in similar cases.

12. Having viewed the submission made by Sri Venkata Ramaiah, counsel for the appellants in this background, we are inclined to hold that in order to avoid unpredictability of assessment, uniformity has to be arrived at. Inconsistency of principle cannot be allowed to remain over these limitations and therefore, we are not inclined to accept the submission made by the counsel for the appellants in this behalf while seeking to persuade us to award compensation in terms of the decision cited (1) supra.

13. We have gone through the award passed by the lower Court and ! examined the same. Probably we are of the view, the Tribunal is not right in deducting Rs. 1200/- from the monthly salary of the deceased towards her personal expenses. In the decision cited (2) supra, the Supreme Court has also held that 1/3 rd could be the reasonable amount that could be set apart for personal expenses.

14. In this case, the deceased Smt. Stella Shantha Kumari was drawing a salary of Rs. 2500/- per month. From that, 1 /3rd has to be deducted towards her personal expenses. On such deduction, the remaining amount has to be considered as her net contribution to the family. Following the said principle, from out of Rs. 2,500/-, 1/3 rd if deducted, comes to Rs. 1,670/- (Rs. 2,500/ minus Rs. 830/-). Therefore, Rs. 1670/- is the monthly contribution of the deceased to her family. This amount of Rs. 1,670/- has to be taken for arriving loss of earnings. The relevant multiplier in this case to be applied is 13. In our view, the Tribunal has rightly applied the multiplier 13. Therefore, the loss of earnings could be as under:

Rs. 1670/- x 13 x 12 = Rs. 2,60,520/-.

This apart, we are of the view, the first appellant is entitled for an amount of Rs. 15,000/- towards consortium. However, the lower Court has awarded only Rs. 2,200/-. Therefore, the Tribunal's award to the extent of granting consortium is modified by raising it to Rs. 15,000/-. The Tribunal has awarded Rs. 7,500/- towards loss of expectancy of life and Rs. 7,500/- towards pain and suffering and loss of amenities of life. We are aware of the fact that the claimants are not entitled to claim any compensation under pain and suffering as the pain and sufferings would go with the deceased person only. However, in our view, the appellants are entitled for grant of a lumpsum of Rs. 15,000/-, under loss of amenities (loss of estate). Therefore, we convert these two amounts granted under the two heads to be the amounts under the head of "loss of amenities. Thus, the appellants are entitled to the following amounts:

Loss of dependency : Rs. 2,60,520-00 Loss of consortium to the first appellant : Rs. 15,000-00 Loss of amenities (Loss of estate) : Rs. 15,000-00 Rs. 2,90,520-00

The appellants are entitled for the above sum of Rs. 2,90,520/- from the date of

filing of the petition i.e., from 12-3-1992. This apart, the appellants are also entitled to interest at the rate of 12% per annum from the date of the filing of the claim petition as directed by the Tribunal.

15. It is stated before us that the first appellant was awarded an amount of Rs. 40,000/-, the second appellant being the minor son was awarded an amount of Rs. 80,000/- and the third appellant being minor daughter was awarded Rs. 1,00,000 / -. Now, as we have enhanced the compensation by Rs. 70,520 / -, we are of the view, that the first appellant could be awarded a total amount of Rs. 60,000/- instead of Rs. 40,000/-. Likewise, the second appellant being minor son is entitled to Rs. 1,00,000/- instead of Rs. 80,000/- and so also the third appellant being minor daughter is entitled to Rs. 1,30,520/- instead of Rs. 1,00,000/-.

16. It is stated by Sri Ashok Rama Rao, learned counsel for the third respondent- Insurance Company that the entire amount as awarded by the Tribunal to the tune of Rs. 2,20,000/- with 12% interest along with costs has already been deposited. If that is so, the respondent No. 3 shall now deposit the amount of Rs. 70,520/- over and above the deposit already made at 12% interest on the said amount from 12-3-1992. This deposit shall be made within a period of eight weeks from today.

17. Sri K. Venkata Ramaiah, learned counsel for the appellants has persuaded us to permit the first appellant to withdraw the entire amount which is granted to him along with proportionate interest without furnishing any security. We see some force in the submission. Accordingly, we permit the first appellant to withdraw the entire amount which falls to his share along with proportionate interest. If any amount has already been withdrawn by the first appellant, that amount has to be given credit to.

18. Coming to the shares of the minors, we are of the view that these amounts shall be kept in fixed deposit till the second and third appellants attain majority. It is open to the counsel for the appellants to file an application before the Tribunal seeking to deposit these amounts pertaining to the shares of the second and third appellants, in an appropriate saving unit either in Unit Trust of India or some other unit which will fetch more benefit to the minor appellants. On such application being filed, the Tribunal shall direct the amount which falls to the share of the second and third appellants to be kept in fixed deposit till they attain majority. However, the first appellant is entitled to withdraw interest, which has accrued to the shares of the second and third appellants, without furnishing any security. This amount must be used by the first appellant for their education. The first appellant is also entitled to withdraw interest which falls to the share of second and third appellants once in six months without furnishing security.

17. This C.M.A. is accordingly disposed of by modifying the order of the Tribunal below to the extent indicated above. No costs.