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**(1993) 06 AP CK 0021**

**In the Andhra Pradesh High Court**

**Case No : Appeal Against Order No. 454 of 1987**

Marthi Narashimhasastry and Another APPELLANT

Vs

D. Srilaxmi Padma and Others RESPONDENT

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**Date of Decision :** 18-06-1993

**Acts Referred:**

Motor Vehicles Act, 1939 — Section 110B

**Citation :** (1994) 2 ALT 277

**Hon'ble Judges :** S. Dasaradharama Reddy, J

**Bench :** Single Bench

**Advocate :** A. Rangacharyulu, for the Appellant; C. Venkatakrishna, for 3rd Respondent, for the Respondent

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## Judgement

S. Dasaradharama Reddy, J.—This is an appeal filed by the parents of the deceased Subrahmanyam against the award of the Motor Vehicles Accidents Claims Tribunal, Krishna at Vijayawada in M.V.OP No. 137 of 1985, granting a sum of Rs. 19,000/- as compensation as against Rs. One Lakh claimed.

2. The case of the appellants is that their son aged about 20 years, studying II year B.Sc. and who was also a sportsman, died on 25-3-1984 as a result of collision between a luna moped which he was driving and the lorry bearing Registration Number ADK 8836. The parents claimed compensation of Rs. One Lakh as under:

Compensation for loss of earning/loss of life : 80,000 Compensation for loss of love and affection to the 1st petitioner : 10,000 Compensation for loss of love and affection to the 2nd petitioner : 10,000

The owner of the lorry and driver remained ex parte. The Insurance Company with which the lorry was insured, has opposed the claim contending that the accident might be due to the negligence of the deceased who has no driving licence, that the driver of the lorry had no licence and in any event the compensation of Rs. one lakh is excessive. The Tribunal held that the accident

was due the rash and negligent driving of the driver. As regards compensation the Tribunal awarded a sum of Rs. 19,000/- (Rs. 18,000/- towards loss to the dependants and Rs. 1,000/- towards loss of love and affection). The Tribunal gave the award against the three respondents together with interest at 6% p.a. from the date of the petition.

3. The owner, the driver of the lorry or the insurance Company has not preferred any appeal against this award. Though the appellants have claimed Rs. 20,000/- towards loss of love and affection at the rate of Rs. 10,000/- each, it is not admissible in view of the decision of the Full Bench of this Court reported in *The Andhra Pradesh State Road Transport Corporation Vs. Narasavva and Others*, .Thus even the award of Rs. 500/- each by the Tribunal is not correct. It is now well settled that whatever may be the damages claimed by the claimants under various heads, it is open to the Tribunal or to this Court to award suitable damages under each head even more than the amount claimed, provided that the total amount awarded must not exceed the amount claimed in the petition.

#### PECUNIARY DAMAGES:-

4. The appellants have claimed Rs. 80,000/-. In the evidence the father has deposed that the deceased was a bright student and a sportsman and was a student of II Year B.Sc. Exs. A-6 and A-7 show that the deceased was proficient in the game of cricket. It is well-known that students proficient in games have bright prospects in employment and also in the matter of emoluments. Assuming that the deceased will complete the B.Sc. course at the age of 21 years, he would have started earning from 21st year, had there been no accident and would have earned at least Rs. 1,500/- p.m. As in the normal course he would have got married, it is reasonable to deduct Rs. 1,000/- p.m. towards the amount that might have been spent for himself and his wife. Thus, the parents would have got Rs. 500/- p.m. i.e., Rs. 6,000/- p.a. So the multiplicand will be Rs. 6,000/-. As regards the multiplier it is now settled in *APSRTC v. G. Ramanaiah* 1988 ACJ 223 : 1987 (2) ALT 526. that in the case of death of an unmarried earning person, the age of the parents must be taken into account. Then the question is: whose age has to be taken into account whether father or mother ?Generally the mother will always be younger than the father. So the mother's age has to be taken into account. In the instant case the age of second appellant, who is the mother, is 45 years as on the date of the accident. As per the table in *Bhagwandas Vs. Mohd. Arif*, which was approved by a Division Bench of this Court in *N. Narasavva v. Ramachandra Shangde* 1989 (2) APLJ 445 the multiplier is 10.45 but in the case of women; it has to be enhanced slightly as per *Bhagwandas Vs. Mohd. Arif*, . So rounding off the multiplier to eleven, the future loss will be Rs. 6,000 x 11 = Rs. 66,000/-.

5. As regards non-pecuniary damages like pain and suffering, loss of amenities, loss of expectation of life, Sri A. Rangacharyulu, the learned Counsel for the appellant relies on the decision of this Court in *Y. Varalakshmi and Others Vs. M. Nageswara Rao and Others*, where it was held that even in fatal cases non-

pecuniary damages have to be given under this head as in the case of injuries and a minimum sum of Rs. 15,000/-. In the instant case the deceased was a science student and a good sportsman and taking this into consideration, it is reasonable to fix Rs. 20,000/- under this head. So in all compensation payable will be Rs. 66,000/- + Rs. 20,000/- = Rs. 86,000/-.

6. Regarding interest, the Supreme Court held in Ramesh Chandra Vs. Randhir Singh and Others, that even though the claimant has not prayed for interest, the Tribunal can give interest at a reasonable rate. Relying on this decision, the learned Counsel for the appellants contended that even though the claimant has asked interest only at a low rate of 6% p.a. in the petition, the Tribunal or this Court can enhance it to a reasonable rate. I agree with the learned Counsel for the appellants and award interest at the rate of 12% p.a. from the date of petition till the date of realisation.

7. In the result, the appeal is allowed partly as indicated above, with proportionate costs.