
(2000) 12 AP CK 0017
In the Andhra Pradesh High Court
Case No : AAO No. 96 of 1999

New India Assurance Co. Ltd.

APPELLANT

Vs

Mohd. Ahmed Qureishi and Others

RESPONDENT

Date of Decision : 08-12-2000

Acts Referred:

Fatal Accidents Act, 1855 — Section 1
Motor Vehicles Act, 1988 — Section 173

Citation : (2001) 2 ACC 247 : (2001) 1 ALD 517 : (2001) 1 ALT 403

Hon'ble Judges : B. Prakash Rao, J

Bench : Single Bench

Advocate : Mr. C.V. Rajeeva Reddy, for the Appellant; Mr. M. Sudhakar Reddy, for the Respondent

Judgement

B. Prakash Rao, J.—This appeal, by the respondent No. 2-Insurance Company arises out of the award in O.P. No. 1600 of 1995 dated 21.9.1998 on the file of the Additional Chief Judge, City Civil Court, Hyderabad.

2. The respondents 1 to 6 herein-claimants sought compensation of Rs. 2,00,000/- for the death of one Mohd. Ghouse in a motor accident that took place on 7.2.1995. The claimants include the parents, three sisters and younger brother of the deceased. According to the claimants, while the deceased was going on a scooter ABY 1646 towards Lungar Houz and when he reached the ring road in front of Krishna Metal Industries, the bus bearing No. AP 13 2262 belonging to the respondent No. 8-M/s. Hindustan Machine Tools Ltd., came from behind in a rash and negligent manner and dashed against the scooter. Due to the said impact, the deceased fell down and died on the spot. The deceased was aged 20 years and doing business in a beef shop earning Rs. 2,000/- per month. The claimants are his dependents and hence the claim.

3. The respondents 1 and 3, the driver and the owner of the vehicle remained ex parte.

4. The contest was only by the appellant, who, denying every allegation, pleaded that no liability can be fastened on it.

5. Before the Tribunal, the claimants examined P.W. 1 and P.W. 2 and marked Exs. A-1 to A-7 in support of their claim. No witness was produced on behalf of the appellant except marking Ex. B-1, the insurance policy. On an appreciation of the evidence adduced before it, Tribunal below awarded a sum of Rs. 1,53,600/- towards compensation with interest @ 12% per annum and apportioned the said amount among the claimants viz., Rs. 26,800/- to both the parents and Rs. 25,000/- each to the sisters and brother, who are minors. The Tribunal found that there was rash and negligent driving on the part of the driver of the bus and in view of Ex. B-1, insurance policy, it was held that the appellant is liable. By placing reliance on the evidence of P.W. 1 and the post-mortem report in Ex. A-3, the deceased was found to be aged 20 years. Further, relying on Ex. A-6, the Municipal Licence and Ex. A-7 identity card by Veterinary Hospital, it was found that the deceased was running a beef shop. Taking the earning of the deceased at Rs. 1,200/ per month and deducting 1/3rd for his personal expenses, the family contribution was arrived at Rs. 800/- per month. By applying the multiplier of 16 on the annual income, the dependency was arrived at Rs. 1,53,600/-.

6. On the submissions made on either side, the question that arises for consideration in this appeal is whether the multiplier to be applied in the case should be based on the age of the deceased or the parents.

7. There is no dispute on the main facts or the findings on the occurrence of the accident and rash and negligent driving. As the appeal is only by the Insurance Company and no appeal having been filed by the owner of the vehicle, there is no need to go into all these aspects.

8. However, the main thrust of the appellant is that in a case of an unmarried deceased young boy, the multiplier has to be reckoned on the basis of the age of the parents, but not that of the deceased.

9. In United India Insurance Co. Ltd., Warangal Vs. Mattedu Manikyam and others, , it was held:

Quantum of compensation - Death claim - Deceased was a bachelor aged 20 years - Taking of multiplier of 19 by the Tribunal for calculating compensation based on the age of the deceased - Erroneous - When the deceased was unmarried, multiplier be reckoned having regard to age of the mother of the deceased - Proper multiplier applicable is 13.

10. In A.P.S.R.T.C. Vs. Jaweed Farooqui and Another, , it was held:

Claim of parents for compensation for the untimely death of their son, a student of Intermediate - Age of the mother of the deceased 35 years Taken into account - Appropriate multiplier is 15.

11. In *United India Insurance Co. Ltd. Vs. Salammal and Others*, , it was held:

Age of dependents and not of the deceased who died at young age be taken into consideration for working out the multiplier in determining compensation. Dependents are not entitled to any compensation under the head "pain and suffering" when the deceased met with instantaneous death and also to any amount under the head funeral expenses.

12. In *A.P.S.R.T.C. v. Ramanaiah* 1987 (2) ALT 526, it was held:

After arriving at the annual contribution (or annual dependency) to the family, the multiplier that has to be applied is not the one appropriate to the age of the child at its death but to the age of the parents. This is because of the fact that the dependency to the parents will last only for the life-time of the parents, who are likely to predecease the child (if the latter had not died in the accident).

13. In *Bhagwandas Vs. Mohd. Arif*, , it was held:

...the Actuary's multiplier based on the Diplock method is now scientifically accepted as the best and also the simplest method for computing future loss of earnings.

14. In view of the above settled principles, it is no doubt that the Court below arrived at the multiplier erroneously on the basis of the age of the deceased, whereas the age of the parents is the relevant footage. By taking into consideration the ages of both the parents, being 55 and 45 respectively, the multiplier which applies is 13. Thus the dependency comes to Rs. 9,600 x 13: Rs. 1,24,800/-.

15. The other question, though not seriously pressed during the arguments, is on the entitlement of the minor sisters and brother. In *United India Insurance Company Limited Vs. M. Ramulu and others*, , it was held:

Deceased died due to accident leaving behind his parents and a brother and sister aged 11 and 17 respectively - No compensation can be awarded to the brother and sister of the deceased as they cannot be said to be dependents on the deceased. Father of the deceased, who is earning is also not entitled to any compensation. Only the mother whose age is 42 is entitled to the compensation.

16. However, in *Gujarat State Road Transport Corporation, Ahmedabad Vs. Ramanbhai Prabhatbhai and Another*, , the Supreme Court held:

Motor accident - Death - Legal representative applying for compensation - Need not necessarily be one of the persons contemplated by Section 1-A of Fatal Accidents Act - Brother of the deceased can maintain it if he is a legal representative of the deceased.

17. Thus, the Apex Court has given wider scope to the definition of "dependent". This decision was not cited before the learned Single Judge while deciding *M. Ramulu's* case (supra). However, this aspect does not come in the way on the

ultimate liability and the quantum. Anyhow, by taking into consideration the fact that the deceased was the only earning member of the family, the minor sisters and brother are also entitled to the amount as dependents.

18. Accordingly, I hold that the claimants are entitled to compensation at Rs. 1,24,800/- and the same is apportioned amongst the claimants viz., respondents 1 and 2 the parents together are entitled to Rs. 44,800/- and the other respondents 3 to 6 are entitled to Rs. 20,000/- each, subject to the same conditions of deposit as ordered by the Court below. These amounts carry interest @ 12% per annum from the date of the petition.

19. In the result, the appeal is partly allowed as above. No costs.