
(1991) 11 AP CK 0047
In the Andhra Pradesh High Court

Oriental Insurance Co. Ltd.	Vs	APPELLANT
Sailada Chinathalli and Others		RESPONDENT

Date of Decision : 25-11-1991

Acts Referred:

Citation : (1993) 1 ACC 144 : (1992) ACJ 251

Hon'ble Judges : G. Radhakrishna Rao, J

Bench : Single Bench

Judgement

G. Radhakrishna Rao, J.—The accident took place on 30.12.1986. In that accident, one Sailada Appalanaidu died on the spot. The claimants--the wife, two daughters and two sons--filed a claim petition claiming Rs. 1,50,000/- as compensation. In support of their case, they have examined three witnesses and got marked Exhs. A-1 to A-7. The direct testimony of the witnesses was accepted by the lower court which found that the accident was due to the rash and negligent driving of the driver pf the vehicle. The vehicle in this case is the motor cycle, ADN 4756. Being aggrieved by the grant of Rs. 1,23,300/-, the Insurance Company filed this appeal.

2. The main contention that has been raised by the counsel for the appellant is that the multiplier that has been applied is not correct and the correct multiplier, even following the judgment of the Supreme Court reported in *Jyotsna Dey v. State of Assam I* (1987) ACC 173 : 1987 ACJ 172 , is only 14.81 and it can be rounded off to 15. The age of the deceased was 35 years. The amount that has been spared by the deceased for the family has been assessed at Rs. 500/-. In the case of a person drawing Rs. 800/- per month by working in a Jute Mill, the amount that has been spared by him to the family consisting of his wife and four children has been reasonably asessed at Rs. 500/-. Taking Rs. 500/- as the monthly income spared towards the family, if we multiply with 15, it will come to Rs. 90,000/-. On the payment of lumpsum, different courts varied on deferent rates. Put, in this case, as the dependents are more, we can deduct 10 per cent only. If we deduct 10 per cent, it will come to Rs. 81,000/-. With regard to the

funeral expenses, the amount awarded by the lower court, that is Rs. 3,000/-, can be retained. With regard to the loss of consortium, different courts vary on different rates and the lower court ought to have taken into, consideration the different rates awarded by different courts. Rs. 15,000/- claimed by them towards the loss of consortium cannot be said to be a reasonable one, particularly when the decisions that have been rendered in a case like this, have not been taken into account. It is to be reduced to Rs. 5,000/- as he is aged about 35 years.

3. With regard to the love and affection, this Court in a reported judgment fn Andhra Pradesh State Road Trans. Corpn. by its Managing Director and Another Vs. Poluri Musali Naidu and Another, , found that in the case of the death of a person, the question of granting under the head of love and affection does not arise. In all, the award has been rounded to Rs. 90,000/-. The claimants are entitled for interest at 12 per cent from the date of the award. The 1st petitioner is entitled to draw Rs. 50,000/- and the remaining amount of Rs. 40,000/- shall be distributed to the minors at the rate of Rs. 10,000/- each and the amount be invested in fixed deposits by the lower court and the same (principal + interest) be paid to the minors immediately after their attaining the majority duly taking into account the ages that have been given in the main petition, without requiring them to produce the age certificates. The appellant is entitled to withdraw the excess amount that has been deposited in the lower court.

4. The C.M.A. is partly allowed. No costs.