
(2006) 09 AP CK 0120
In the Andhra Pradesh High Court
Case No : C.M.A. No. 2994 of 1998

Pommadi Durga Rao and Another	Vs	APPELLANT
Kota Venkatarao and Others		RESPONDENT

Date of Decision : 29-09-2006

Acts Referred:

Citation : (2007) 2 ALT 371

Hon'ble Judges : C.Y. Somayajulu, J

Bench : Single Bench

Advocate : Kuriti Bhaskara Rao, for the Appellant; D. Sudarshan Reddy and Kota Subba Rao, for the Respondent

Judgement

C.Y. Somayajulu, J.—The appellants, who are the parents of Pemmadi Srinu (the deceased) have preferred this appeal dissatisfied with the compensation awarded to them by the Motor Accidents Claims Tribunal in the claim petition filed by them seeking compensation for the death of the deceased in an accident caused by the vehicle belonging to 2nd respondent and insured with 3rd respondent, due to the rash and negligent driving of the 1st respondent

2. All the respondents contested the application on various grounds.

3. In support of their case, appellants examined three witnesses as P.Ws.1 to 3 and marked Exs.A-1 to A-3. Respondents 1 and 2 did not adduce any evidence either Oral or documentary on their behalf. On behalf of 3rd respondent Ex.B-1 was marked by consent. No oral evidence was adduced on its behalf. Holding that the accident occurred due to the rash and negligent driving of 1st respondent the Tribunal awarded Rs. 16,000/-as compensation to the appellants besides the compensation already awarded to them under no fault liability.

4. Since the finding of the Tribunal that the accident occurred due to the rash and negligent driving of 1st respondent became final as respondents did not prefer cross-objections or cross-appeal questioning the said finding and since this appeal is preferred by claimants seeking higher compensation, the only point for

consideration is what compensation are the appellants are entitled to ?

5. The evidence of P.W.1 shows that besides the deceased they have another son. The post-mortem examination report of the deceased shows that he was aged about 15 years by the date of his death. So the contention of the appellants that the deceased was earning Rs. 500/- per month cannot be believed and accepted.

6. In *Apsrtc v. G. Ramanaiah* 1987 (2) ALT 526 : 1988 (1) ACJ 223 (A.P.) it is held that in case of death of children between the age group of 15 to 18 years, the compensation has to be fixed at the present value of the future contributions which the deceased could have made to them and dependency can be estimated by computing the actual contribution which the child would have made from the date of his probable earnings and the question as to when the child would have reached such an earning capacity and what he should have contributed will have to be estimated.

7. Had he been alive the deceased would have gone to coolie work or other work and started earning only after attaining majority. Even if he was contributing higher amount to the appellants initially, after getting married and begetting children he would not be contributing the same amount to the appellants in future because he would be having the liability to maintain his wife and children also and (since) the appellants admittedly, have another son who also has a duty to maintain the appellants in their old age. In the facts and circumstances of the case. I am of the considered opinion that the average contribution of the deceased to the appellants can be taken as Rs. 300/- per month or Rs. 3,600/- per annum. Since appellants are the parents of the deceased, for fixing the relevant multiplier, the ages of the appellants, but not the age of the deceased has to be taken into consideration. There is no reliable evidence on record relating to the ages are of the appellants. In the claim petition their ages mentioned as 50 and 45 years respectively. Since 2nd appellant was aged about 45 years, as per *Bhagwandas Vs. Mohd. Arif*, the multiplier can be fixed at 10. Therefore, the pecuniary damages payable to the appellants would come to Rs. $3,600 \times 10 = \text{Rs. } 36,000/-$.

8. In *Y. Varalakshmi and Others Vs. M. Nageswara Rao and Others*, it was held that in every fatal accident case, arising under the Act, a minimum compensation of Rs. 15,000/- has to be awarded to the claimants towards non-pecuniary damages. Therefore the appellants are also entitled to Rs. 15,000/- towards non-pecuniary damages.

9. Thus the appellants are entitled to Rs. $36,000 + 15,000/- = \text{Rs. } 51,000/-$ as compensation for the death of the deceased. Since the appellants were already awarded Rs. 25,000/- under no fault liability, they are entitled to Rs. 26,000/- as compensation under fault liability. The point is answered accordingly.

10. In the result, the appeal is allowed in part. An award is passed for Rs. 26,000/-, with proportionate costs in the Tribunal, in favour of the appellants

against the respondents jointly and severally with interest at 12% p.a. on Rs. 16,000/- from the date of petition till the date of deposit as awarded by the Tribunal and with interest at 9% p.a. on the additional amount of Rs. 9,000/- (sic. Rs. 10,000/-) awarded in this appeal, from today till the date of deposit into the Tribunal. Rest of the claim of the appellants is dismissed without costs. Parties shall bear their own costs in this appeal.