
(2014) 01 AP CK 0046
In the Andhra Pradesh High Court
Case No : M.A.C.M.A No. 382 of 2009

Smt. Apparaju Sobha Rani

APPELLANT

Vs

Midiyam Rama Rao and Another

RESPONDENT

Date of Decision : 23-01-2014

Acts Referred:

Motor Vehicles Act, 1988 — Section 158 166

Citation : (2014) ACJ 2714 : (2014) 3 ALT 555 : (2014) 2 AnWR 179

Hon'ble Judges : U. Durga Prasad Rao, J

Bench : Single Bench

Advocate : K. Venkatesh, for the Appellant; K. Satyanarayana Murthy, for the Respondent

Final Decision : Allowed

Judgement

U. Durga Prasad Rao, J.—Challenging the compensation granted in O.P. No. 318 of 2000 by the Motor Accidents Claims Tribunal-cum-I Additional District Judge, East Godavari, Rajahmundry (for short "Tribunal") as inadequate, the claimant preferred the instant M.A.C.M.A. The factual matrix of the case is thus:

a) For the death of Ramakrishna Sastry in APSRTC bus accident, his wife filed O.P. No. 318 of 2000 against the driver and APSRTC and claimed Rs. 2,00,000/- as compensation under different heads.

b) The respondent No. 2 contested the O.P.

c) The Tribunal in its award held that the claimant is entitled to compensation under different heads as follows:

1.

Loss of Dependency

Rs. 2,56,000/-

2.

Lossofconsortium

Rs. 15,000/-

3.

Lossofestate

Rs. 15,000/-

4.

Funeral expenses

Rs. 2,000/-

TOTAL

Rs. 2,88,000/-

Though the claimant was entitled to Rs. 2,88,000/-, since her claim was Rs. 2,00,000/- the Tribunal awarded only Rs. 2,00,000/-. Hence, the appeal by the claimant.

2. Heard arguments of Sri K. Venkatesh, learned counsel for appellant/claimant and Sri K. Satyanarayana Murthy, learned counsel for Respondent No. 2.

3. Learned counsel for appellant argued that the Tribunal having observed that the claimant is entitled to Rs. 2,88,000/- ought to have granted the said amount without restricting the compensation to Rs. 2,00,000/-. He submitted that there is no bar for the Tribunal to grant higher compensation than claimed by the claimants if it finds that such compensation is just and reasonable having regard to the facts and circumstances of the case. To buttress his case, he relied upon the following decisions:

i) Nagappa Vs. Gurudayal Singh and Others,

ii) New India Assurance Company Limited Vs. Palagiri Hassan and Others,

He thus prayed to allow the appeal and enhance the compensation.

4. Per contra, learned counsel for 2nd respondent/APSRTC while opposing the appeal argued that the appellant ought to have filed amendment petition claiming enhanced compensation and without doing so she cannot maintain the appeal. He further argued that the Tribunal selected multiplier "16" instead of "15" and so compensation has to be reduced. He thus prayed to dismiss the appeal.

5. In the light of above divergent arguments, the point for determination in this appeal is:

Whether the Tribunal can grant more compensation than claimed when the court finds it just and reasonable?

6. POINT: The issue touching the power of the Court to grant higher compensation than claimed in just and reasonable cases is no more res integra and covered by the decisions cited by the appellant. In the case of Nagappa v. Gurudayal Singh (Supra), Hon''ble Apex Court held thus:

Para 16: From the aforesaid observations it cannot be held that there is a bar for the Claims Tribunal to award the compensation in excess of what is claimed, particularly when the evidence which is brought on record is sufficient to pass such award. In cases where there is no evidence on record, the Court may permit such amendment and allow to raise additional issue and give an opportunity to the parties to produce relevant evidence.

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Para 21: For the reasons discussed above, in our view, under the M.V. Act, there is no restriction that Tribunal/Court cannot award compensation amount exceeding the claimed amount. The function of the Tribunal/Court is to award "Just" compensation which is reasonable on the basis of evidence produced on record. Further, in such cases there is no question of claim becoming time barred or it cannot be contended that by enhancing the claim there would be change of cause of action. It is also to be stated that as provided under Sub-section (4) to Section 166, even report submitted to the Claims Tribunal under Sub-section (6) of Section 158 can be treated as an application for compensation under the M.V. Act. If required, in appropriate cases, Court may permit amendment to the Claim Petition.

The above decision was followed by our High Court in the case of New India Assurance Company Limited, Chittoor v. Palagari Hassan (Supra).

7. So from the above decision of Hon''ble Apex Court it is clear that when the evidence on record is sufficient to pass compensation in excess of what is claimed, the Tribunal can award such compensation. For granting such excess amount, there is no need of driving the party to file amendment petition. It is only in cases where there is no evidence on record and party seeks for amendment of the claim petition to claim higher compensation, the Court may permit such amendment and allow to raise additional issue and give an opportunity to the parties to produce relevant evidence.

8. Coming to the case on hand, the award would show that the Tribunal basing on the evidence on record held that the claimant in fact is entitled to Rs. 2,88,000/-. However the Tribunal pruned the said amount to Rs. 2,00,000/- since the claim of the appellant was only Rs. 2,00,000/-. Therefore, in view of the above decision, I see no merits in the contention of the respondent that the appellant should necessarily file an amendment petition.

9. I also see no force in the other contention of the respondent that multiplier "15" instead of "16" should be applied following the decision reported in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, . It must

be said that the award was passed in the year 2003 following the Second Schedule of the Motor Vehicles Act. The aforesaid decision was rendered subsequently. So in my view, it is not apt to reduce the multiplier at this juncture. In the result, this appeal is allowed and the compensation is enhanced to Rs. 2,88,000/- from Rs. 2,00,000/- with costs and simple interest at 9% p.a. from the date of O.P till the date of realization. Respondents are directed to deposit the enhanced compensation amount within one month from the date of this judgment, failing which execution can be taken out against them.

Miscellaneous applications if any pending in this appeal, shall stand closed.