
(1993) 02 AP CK 0048
In the Andhra Pradesh High Court

Thota Veera Raghavaiah and Another	APPELLANT
Vs	
National Insurance Co. Ltd. and Others	RESPONDENT

Date of Decision : 02-02-1993

Acts Referred:

Citation : (1994) 2 ACC 27 : (1994) ACJ 476

Hon'ble Judges : P. Ramakrisham Raju, J;M.N. Rao, J

Bench : Division Bench

Judgement

P. Ramakrisham Raju, J.—This Letters Patent Appeal is filed by the Respondent Nos. 6 and 7 in C.M.A. No. 581/86 which was dismissed by the learned Single Judge with slight modification.

2. The facts of the case are these. One Thota Nageswara Rao who was travelling in City Bus, died on 12.1.1984 on account of an accident that occurred due to the rash and negligent driving of the driver of the said bus, due to which the driver lost control and the bus swerved to the right side of the road, hit an electrical pole and a Palymarah tree. The mother and the widow of late Nageswara Rao filed M.V.O.P. No. 221 of 1984 on the file of the I Additional District Judge-cum-First Additional Motor Accident Claims Tribunal, Krishna, Machlipatnam, claiming a sum of Rs. 1,00,000/- by way of compensation. The driver of the ill-fated vehicle, the owner and the Insurance Company are the respondents in that Original Petition. The Motor Accident Claims Tribunal has disposed of the said Original Petition along with other Original Petitions filed by some injured persons by a common order dated 12.12.1985 allowing the O.P. and awarded a sum of Rs. 38,500/- by way of compensation. In addition to that, a sum of Rs. 6,000/- was awarded to the widow towards loss of consortium. The compensation amount of Rs. 38,500/- was equally divided between the mother and the widow. So, accordingly, the mother of the deceased was awarded a sum of Rs. 19,250/- while the widow was awarded a sum of Rs. 25,250/-. Aggrieved by the said order, the Insurance Company filed C.M.A. No. 581 of 1986 while the widow of the deceased has filed cross objections.

3. As already stated, both the matters were dismissed by the learned Single Judge, on 4.9.1991 with a slight modification.

4. The respondent No. 5 was in the womb of die second respondent herein, at die time of the deem of late Nageswara Rao. During die pendency of the Appeal, she was impleaded as the fifth respondent. The learned Judge, while confirming the quantum of compensation awarded by die Accidents Tribunal, made a provision for the minor daughter. The learned Single Judge has also noticed me fact that the mother has already withdrawn a sum of Rs. 7,500/- out of the amount deposited during course of appeal, but now it transpired that she has wididrawn an amount of Rs. 6,500/-. During die pendency of die appeal, mother of die deceased also died and die appellants who are her husband and daughter were brought on record.

5. According to the order of die learned Single Judge, die balance amount awarded to die mother of die deceased was directed to be paid to die minor daughter who was brought on record since the mother of the deceased is no more. This order is challenged in this appeal filed by the legal representatives of die mother of the deceased.

Shri Veerabhadrayya, learned Counsel for die appellants, has submitted that die appellants herein are entitled to claim the compensation awarded to die mother of die deceased as they are legal representatives and die same cannot be interfered within the absence of any appeal preferred by die widow or on behalf of me minor daughter. The learned Counsel murder contended that me learned Single Judge has no jurisdiction to read just die amount of compensation between the parties in die appeal filed by die Insurance Company. He also contended that die interest awarded by die Accidental Claims Tribunal at the rate of 6% p.a. as to low and die usual practice of die Court in awarding interest is at the rate of 12% p.a., and there is no reason why it would not be followed in this case also.

7. It is true that the Insurance Company preferred the appeal and the mother daughter who was born after the death of die deceased was brought on record in the said appeal. Therefore, the learned Single Judge has considered the question whether die respondent No. 5, the minor daughter of die deceased, should be directed to file an application for reopening the Original Petitioner filed for compensation, or whether a part of die compensation originally awarded by the Motor Accidents Claims Tribunal, can be ordered to be paid to die minor daughter in the appeal itself. Since die learned Judge is confirming die quantum of compensation awarded by the Accidents Claims Tribunal and the only question that fell for consideration before him was apportionment of compensation, die learned Judge felt that die matter need not go back to the Claims Tribunal once again, but a reasonable apportionment can be made, making some provision for the minor daughter in the appeal itself. We entirely agree with the view of die learned Single Judge in this regard.

8. The learned Counsel for the appellants has contended that the mother being a class-I heir under Hindu Succession Act, is entitled to an equal share with the widow on the death of her son and therefore, the compensation awarded to the mother of the deceased cannot be reduced.

9. In the distribution of the amount of compensation awarded by the Claims Tribunal to the legal representatives of a deceased, the shares allowable under the Hindu Succession Act, are not applicable. The compensation is awarded by the Tribunal taking into consideration not only the relationship of the claimants with the deceased but also the extent of their dependency, their future requirements, age and other related circumstances. When the award became final, and in the event of the death of the claimant, his or her legal representatives would be entitled to, if they happen to be Hindus, their shares in the compensation amount on the basis of Hindu Succession Act. When the award is in favour of more than one claimant and if they are Hindus, they cannot put forth a contention that their claims shall be determined on the basis of Hindu Succession Act, when the award is under appeal.

10. The mother of the deceased is no more. She has already received Rs. 6,500/- by way of compensation, pending disposal of the appeal. Therefore, we are of the view that the balance amount of Rs. 12,750/- awarded to the mother of the deceased by the Claims Tribunal, can reasonably be awarded to the minor daughter, respondent No. 5. This sum is required for her food, clothing, education and marriage expenses etc. Therefore, we entirely agree with the view taken by the learned Single Judge that this amount of Rs. 12,750/- should be awarded to the minor daughter, respondent No. 5.

11. Coming to the next submission made by the learned Counsel for the appellants with regard to the rate of interest i.e. that the rate of interest awarded by the Claims Tribunal at 6% p.a., is not a reasonable and the said rate is too low. Thus, keeping in view of the practice of this Court as well as the present interest rates prevailing in the market and Financial Institutions, we feel it reasonable to award interest at 12% p.a. instead of 6% p.a., on the compensation awarded.

12. The difference of interest that would accrue on the amount of Rs. 6,500/- till the date of withdrawal by the mother, is payable to the appellants and accordingly, they are entitled to the same. The amount awarded to the minor daughter shall be kept in fixed deposit till she attains majority as observed by the learned Single Judge and the mother of the minor daughter-Thota Venkata Venukumari will be entitled to receive interest on the said amount towards necessities of the minor daughter. But, she will not be entitled to take any loan on its security.

13. Therefore, this Letters Patent Appeal fails and is accordingly, dismissed with the modification as indicated above. No order as to costs.