

(1992) 01 AP CK 0023
In the Andhra Pradesh High Court
Case No : A.A.O. No. 963 of 1989

T.T. Abbas Ali and Another	Vs	APPELLANT
T. Govindarajulu and Others		RESPONDENT

Date of Decision : 21-01-1992

Acts Referred:

Citation : (1994) ACJ 876 : (1993) 1 ALT 764 Supp

Hon'ble Judges : Radhakrishna Rao, J

Bench : Single Bench

Advocate : S.V.R. Somayajulu, for the Appellant; M. Chandrasekhar Reddy, for the Respondent

Judgement

Radhakrishna Rao, J.—This is a case of death of a very enterprising and promising boy on account of the rash and negligent act of the driver of the vehicle in the accident that took place on 14.11.1984. The claimants are the father, mother, brothers and sisters. The father of the deceased is aged about 57 years and the mother is aged about 45 years. The last child is aged about four years.

2. So far as the rash and negligent act of the driver of the vehicle is concerned, it can be said that the reasons that have been given by the Tribunal are correct.

3. With regard to the quantum of compensation that has been awarded, the counsel for the insurance company as well as the owner contend that it is highly excessive and the entire income of the deceased was taken as loss of dependency.

4. It has to be noted that it is the duty of the Claims Tribunal to arrive at the loss of dependency by estimating the loss of income and by deducting therefrom the amount spent by the deceased for himself and then applying the multiplier, basing on the principles enunciated by this court in Bhagawan Das v. Mohd. Arif (1987 ACJ 1052 (AP)). In this judgment this court has given certain guidelines to restrict the arbitrary attitude exhibited by different Tribunals and to get

uniformity and then to see that reasonable compensation has been awarded and certain principles have been evolved after discussing the pros and cons. In the case of death of an unmarried boy, the age of the parents has to be taken into consideration for applying the multiplier. In the case of death of a married person, the multiplier that has to be applied depends upon the age of the deceased. The learned Judge of the Tribunal has not taken that aspect into consideration, even though he delivered the judgment on 16.2.1989. Since the learned Judge has not taken into consideration the principles enunciated in the above judgment of this court and applied a wrong multiplier, i.e., 17.95, this court feels that the application of multiplier of 17.95 is bad. In this case the mother is aged 45 years. Hence the correct multiplier that is applicable in this case is 10.45. Therefore, 10.45 alone is to be applied, but not 17.95. Since the insurance company is not questioning the age of the parents and no evidence has been let in to disprove the age of the mother, the multiplier that has to be applied is 10.45.

5. With regard to income, it has been contended by the learned counsel for the appellant that the amount that is being spent on account of the deceased was not taken into consideration. It is, therefore, on a reading of the order of the Tribunal, found that the Tribunal has not taken into account that aspect. Mr. Chandrasekhar Reddy contended that on the basis of the material available on record, the amount that has been arrived at, i.e., Rs. 500/- per month, could be sustained. It is true that though under different heads the amount has been granted, it can be granted if the parties are entitled to and the amount that has been granted can be sustained even though there is a variance with regard to the items that have to be taken into consideration, by considering the evidence concerned. In this case with regard to the milk business and vegetable business, different views have been expressed. Further, the Tribunal took into consideration the coal business that is being done by him. However, there is no evidence to show that as on the date of accident also, he was doing coal business. The learned Judge fixed the income of the deceased at Rs. 500/- or Rs. 600/- and normally the amount that should be taken into consideration, should be the maximum amount of estimation. Therefore, if Rs. 600/- is taken as monthly income and Rs. 100/- is deducted towards his expenses, then Rs. 500/- will be the loss of dependency. So, the annual loss of dependency is estimated at Rs. 6,000/- and applying the multiplier of 10.45 and rounding off the figure, Rs. 65,000/- may be granted in this case.

6. It must be borne in mind that even though a person aged about 25 years died, the compensation varies depending upon the status of the claimants. If the person who died is unmarried, the loss of dependency depends upon the age of the parents, If the person who died is married, the ages of wife and children should be considered and the loss of dependency should depend upon the age of the deceased.

7. In the result, the appeal is allowed in part and Rs. 65,000/- is fixed as

compensation. The claimants are entitled to interest at 12 per cent per annum from the date of filing of the petition on the compensation amount now granted. No costs.