

HONOURABLE SRI JUSTICE P. SWAROOP REDDY
CIVIL MISCELLANEOUS APPEAL No.1437 of 2002

JUDGMENT:

This Civil Miscellaneous Appeal is filed by the appellants-claimants against the judgment and decree, dated 29.02.1992, passed by the learned Chairman, Motor Vehicles Accidents Claims Tribunal-cum-District Judge, Guntur, in M.V.O.P.No.371 of 1990.

2. The appellants are claimants and the deceased was their son. According to them, on 01.08.1990 at about 1.30 p.m. the deceased was going on a cycle from Arundalpet towards A.C. College, Guntur. When he reached St. Joseph Hospital and Convent, a city bus bearing No.APG 144 came behind him in a rash and negligent manner and dashed against him. As a result of which, he sustained injuries and died on the spot. The deceased was aged 18 years and he was working as a leather tailor and used to earn Rs.20/- per day. The 1st respondent is the Owner and the 2nd respondent is the Insurer of the offending city bus. A claim petition was accordingly filed seeking compensation of Rs.76,000/-.

3. The 2nd respondent-Insurance Company filed counter denying the allegations made in the claim petition and contending that the compensation claimed is excessive.

4. Basing on the above pleadings, the Court below framed the following issues:

- 1) Whether the accident in question took place due to rash and negligent driving of the vehicle bearing No.APG 144 by its driver?

2) To what amount of compensation, the petitioners are entitled and against whom?

3) To what result?

5. On behalf of the appellants-claimants, P.Ws.1 and 2 were examined and Exs.A.1 to A.6 were marked. On behalf of the Insurance Company, Ex.B.1 was marked.

6. On the basis of the material on record, the trial Court came to the conclusion that the appellants-claimants are entitled for compensation and accordingly awarded compensation of Rs.18,300/- to the 1st appellant and Rs.20,100/- to the 2nd appellant with interest at 12% p.a. from the date of petition till the date of deposit, by judgment dated 29.02.1992. Being aggrieved by the same, the appellants-claimants filed this Civil Miscellaneous Appeal.

7. The learned counsel for the appellants-claimants has mainly contended that the compensation awarded by the Court below is inadequate and the multiplier applied is incorrect.

8. Now, the point that arises for consideration is:

Whether there are any grounds to enhance the compensation awarded by the Court below to the appellants-claimants?

9. There is no dispute that the deceased was unmarried and he was aged 18 years at the time of the accident. Though it is stated that the deceased was earning Rs.20/- a day, no documentary evidence is placed to establish the same. Therefore, I am inclined to fix his income at Rs.15/- a day and his contribution to the family at Rs.3,600/- per annum after deducting 1/3rd of the amount towards personal expenses.

10. The Court below without applying the appropriate multiplier as per Statutory Schedule-2 of the Motor Vehicles Act, 1988 (for short "the Act"), awarded compensation to the appellants-claimants and the same is not correct. Since the deceased was unmarried by the time of the accident, the age of his mother, 2nd respondent herein, has to be taken into consideration for purpose of calculation of loss of dependency. The age of the 2nd respondent is 48 years. As per Statutory Schedule-2 of the Act, the appropriate multiplier is "13" and thus the loss dependency comes to Rs.46,800/- (Rs.3,600/- per annum x 13). In addition to that, the appellants can be awarded Rs.15,000/- towards other heads. In all the appellants are entitled for compensation of Rs.61,800/- which is rounded off to Rs.65,000/- (Rupees Sixty five thousand only).

11. Accordingly, the Civil Miscellaneous Appeal is partly allowed enhancing the compensation amount from Rs.38,400/- to Rs.65,000/- with interest at 7.5% per annum on the enhanced amount from the date of petition till the date of payment. The appellants can withdraw the amount as and when deposited, as the accident has taken place in August, 1990.

P. SWAROOP REDDY, J.

30th June, 2010
cbs

HONOURABLE SRI JUSTICE P. SWAROOP REDDY

CIVIL MISCELLANEOUS APPEAL No.1437 of 2002
(Partly allowed)

DATE:30.06.2010

cbs