

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

M.A. C.M.A. No.930 of 2010

JUDGMENT :

This appeal is arising out of the order and decree, dated 4th August, 2009 in O.P.No.1259 of 2007 on the file of the Judge, Family Court-cum-Additional District & Sessions Judge, Nalgonda.

(2) The appellants are parents of the deceased boy aged about 13 years who died in a motor vehicle accident. They filed O.P.No.1259 of 2007 claiming compensation of Rs.2,50,000/- on account of his death. The Tribunal awarded an amount of Rs.75,000/- with costs and interest at 7.5% per annum. The appellants, having dissatisfied with the award, have preferred this appeal for enhancement of compensation.

(3) The brief facts of the case are that on 12.11.2007 at about 8.00 AM while the deceased was going along with his parents in a bus and got down at Kolukulapally bus stage and while they were about to cross the road, one APSRTC bus bearing No.AP 10 Z 5215 came and dashed against the deceased. The boy sustained grievous injuries in the accident and died on the spot. The police registered a case in crime No.111 of 2007 under Section 304-A I.P.C. The respondent-APSRTC filed counter denying that the accident occurred due to the rash and negligent driving of the driver of the bus. It is further contended that the claim of petitioners is highly excessive and sought for dismissal of the petition. The Tribunal, on consideration of the evidence, has awarded compensation of Rs.75,000/-.

(4) The point for consideration in this matter is:

Whether appellants are entitled for enhancement of the compensation ?

(5) This is a case of death of a minor boy in a motor vehicle accident. The appellants are parents of the deceased. The boy died while they got down from APSRTC bus and crossing the road, another APSRTC bus dashed against the boy. The appellants filed a claim petition claiming compensation of Rs.2,50,000/- and the Tribunal has awarded Rs.75,000/-. Being aggrieved by the order passed by the Tribunal, this Appeal has been preferred by appellants for enhancement of the compensation.

(6) Heard the learned counsel for appellants Smt.K.Rajitha and learned counsel for respondents Sri A.Ravi Babu.

(7) Learned counsel for appellants submits that the Tribunal has awarded a very meagre compensation for the death of a minor boy in an accident. The counsel placed reliance on decisions reported in *Kishan Gopal and another vs. Lal and Others*¹ and *Rajesh & Ors. Vs. Rajbir Singh & Ors.*² and submitted that the income of the deceased is to be taken into consideration as Rs.30,000/- per month and multiplier applicable to his age is '15', therefore he is entitled for compensation of Rs.4,50,000/- (30,000 x 15) and towards conventional charges, he is entitled for Rs.50,000/- which comes to Rs.5,00,000/-(4,50,000 + 50,000) whereas the tribunal has awarded only Rs.2,50,000/- and therefore sought for enhancement of the compensation.

¹ 2014 (1) SCC 244

² 2013 (6) Scale 563

(8) Learned counsel for the respondent submitted that appellants are not entitled for enhancement of compensation in this matter, as the age and income of the deceased is not proved by any evidence and that the compensation awarded by the Tribunal is adequate and it does not require any enhancement.

(9) Having regard to the facts and circumstances of this case, since it is proved that this is a case of death of a minor boy in a motor vehicle accident and the Tribunal has found that the driver of the APSRTC has negligently driven the bus and therefore, the liability was held against the respondent. As far as the quantum of compensation is concerned, appellants are entitled for compensation of Rs.5,00,000/- in view of the ratio laid down in the decisions of ***Kishan Gopal's case*** and ***Rajesh's case*** (supra). The notional income of the deceased is Rs.30,000/- per month. The multiplier applicable to the age below 15 years is '15' and it comes to Rs.4,50,000/-(30,000 x 15) and appellants are also entitled to the conventional charges of Rs.50,000/-. Therefore, appellants are entitled for an amount of Rs.5,00,000/-(4,50,000 + 50,000) on account of the death of their minor son in a motor vehicle accident.

(10) In the result, the appeal is allowed modifying the award of the Tribunal enhancing the compensation from Rs.75,000/- to Rs.5,00,000/- with proportionate costs and interest at 7.5% per annum from the date of petition till the date of realization. No order as to costs.

(11) Consequently, Miscellaneous Petitions pending, if any, shall stand closed.

GUDISEVA SHYAM PRASAD, J.

28th February, 2017
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