

(2010) 10 AP CK 0013

Andhra Pradesh High Court

Case No: Civil Miscellaneous Appeal No. 2740 of 2003

Satti Eedamma and Others

APPELLANT

Vs

Sardar Khan, The United India
Insurance Co. Ltd. and Satti
Durgamma

RESPONDENT

Date of Decision: Oct. 21, 2010

Hon'ble Judges: C.V. Nagarjuna Reddy, J

Bench: Single Bench

Advocate: K. Rajitha, for the Appellant; V. Srinivasa Rao, for the Respondent

Judgement

C.V. Nagarjuna Reddy, J.

This Civil Miscellaneous Appeal arises out of award dated 12-12-2002 in O.P. No. 768/99 on the file of Motor Accidents Claims Tribunal (Principal District Judge), at Nalgonda (for short, "the Tribunal").

2. The Appellants filed this appeal, feeling dissatisfied with the compensation awarded by the Tribunal for the death of a person by name Venkaiah (the deceased).

3. Appellant No. 1 is the widow, Appellant Nos. 2 to 4 are the daughters and Appellant No. 5 is the mother of the deceased. Respondent Nos. 3 and 4 are also the daughters of the deceased. The deceased died in a motor accident while traveling in auto bearing registration No. AP 11 U 8406, driven by Respondent No. 1 and insured with Respondent No. 2. The Appellants claimed a sum of Rs. 3,00,000/- as compensation. However, finding that the accident has occurred on account of rash and negligent driving of the driver of the auto, the Tribunal has quantified the compensation at Rs. 1,11,400/-, with interest at 9% per annum from the date of the petition till the date of deposit. The Tribunal has made apportionment of the compensation among the legal heirs of the deceased.

4. In this appeal, Smt. K. Rajitha, learned Counsel for the Appellants has raised the following contentions:

- (i) that the Tribunal has not assessed the income of the deceased properly;
- (ii) that the Tribunal has committed an error in deducting $1/3^{\text{rd}}$ of the assessed income towards personal expenditure of the deceased in stead of deducting $1/5^{\text{th}}$; and
- (iii) that the Tribunal erroneously applied the multiplier of 12 in stead of 15.

5. The learned Standing counsel Sri Srinivas Rao Vutia for Respondent No. 2 opposed the above contentions.

6. As regards the first contention of learned Counsel, the Tribunal has taken Rs. 30/- as the daily wage of the deceased who was a labourer. The learned Counsel for the Appellants has submitted that even under Schedule-II of the Motor Vehicles Act 1988, where the deceased is not an earning member, a notional income of Rs. 15,000/- per annum is prescribed. She has therefore stated that the Tribunal ought to have at least followed the said provision in assessing the income of the deceased.

7. I find force in this submission of the learned Counsel for the Appellants. Even in the year 1999, the labourers must have been earning a daily wage to earn Rs. 15,000/- per annum. Accordingly, I accept this contention of the learned Counsel for the Appellant.

8. With regard to the contention that the Tribunal ought to have deducted only $1/5^{\text{th}}$ towards the personal expenditure of the deceased, in [Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another](#), the Supreme Court held that where the deceased left behind more than six dependent family members, deducting $1/5^{\text{th}}$ of the assessed income shall be made. Accordingly, the award is liable to be modified by substituting $1/5^{\text{th}}$ for $1/3^{\text{rd}}$ towards personal expenditure of the deceased.

9. Coming to the last contention of the learned Counsel for the Appellants, the Tribunal has taken only 12 as the multiplier in stead of 15. It is not in dispute that the deceased was aged 40 years. In Sarala Verma (supra) the Supreme Court held that where the age of the deceased is between 36 and 40 years, 15 is the appropriate multiplier.

10. In the light of the discussion undertaken above, the award of the Tribunal is modified in the following terms:

- (i) the income of the deceased is taken as Rs. 15,000/- per annum and $1/5^{\text{th}}$ shall be deducted towards personal expenses of the deceased;
- (ii) the multiplier of 15 is substituted for the multiplier of 12; and
- (iii) the enhanced compensation shall carry interest at the rate of 6% per annum;

11. The award of the Tribunal in all other respects stands confirmed.
12. The Civil Miscellaneous Appeal is allowed to the extent indicated above.