Andhra High Court
P. Saraswathamma And Ors. vs Family Planning Association Of ... on 10 June, 2002
Equivalent citations: 2004 ACJ 218, 2002 (5) ALD 94
Author: B Swamy
Bench: B Swamy, G Yethirajulu
JUDGMENT B.S.A. Swamy, J.

1. Aggrieved by the award, dated 28-2-2001, in OP No. 325 of 1995, of the Motor Accidents Claims Tribunal-cum-Additional District Judge, Madanapalle, the legal representatives of the deceased P.C. Rami Reddy filed the present civil miscellaneous appeal.

2. The brief facts of the case are that on 5-10-1993 while the deceased was returning home from Punganur Bus Stand, a Jeep bearing No. CAN.2510 belonging to the 1st respondent hit him forcibly, as a result of which he sustained multiple injuries. Thereafter, he succumbed to injuries on 26-11-1993. The legal heirs of the deceased filed OP No. 325 of 1995 before the Tribunal claiming a compensation of Rs. 6,00,000/-under various heads.

3. The Tribunal having appreciated the evidence on record, granted Rs. 2,02,477/-and after deducting Rs. 25,000/-, paid by the 1st respondent under no-fault liability, an amount of Rs. 1,80,000/- was directed to be paid to the legal heirs of the deceased, which includes Rs. 69,840/- towards loss of dependency, Rs. 15,000/- towards loss of consortium, Rs. 15,000/- towards loss of estate, Rs. 10,000/- towards attendant charges, Rs. 2,000/- towards transport, Rs. 3,000/-towards funeral expenses, Rs. 2,000/- towards carrying the dead body to the hospital and Rs. 85,637/- towards medical expenses.

4. The only contention raised by the learned Counsel for the appellants in this appeal is about the multiplier applied by the Tribunal.

5. According to the finding of the Tribunal the age of the deceased was more than 60 years at the time of his death. In the decision of the learned single Judge of this Court in Bhagwan Das v. Mohd. Arif, 1987 (2) ALT 137, no multiplier was fixed for the people who crossed the age of 60 years. But, at the same time, the Courts cannot fix compensation whimsically or without reference to the facts of the case. The appellants have contended that the deceased was having agricultural properties and several businesses. But, unfortunately, the Counsel who could secure the particulars of income of the deceased has not made any effort to bring the same to the notice of the Court. The deceased being a businessman definitely would have been paying the income tax. But the Counsel for the appellants did not know even those elementary principles to prove the income of the deceased. Therefore, the Tribunal having assessed the gross income of the deceased at Rs. 9,000/- per month deducted 1/3rd towards his personal expenses, estimated the loss of dependency at Rs. 6,000/-per month and applied the multiplier of 0.97 on the basis of Bhagwan Das case (supra). A reading of the above judgment makes it very clear that the multiplier prescribed in the judgment is not mandatory one and it is always flexible. Though there is no sufficient proof about the age of the deceased, the fact remains that he is a well to do person having agricultural properties and also businesses. Further, due to advanced technologies in medicine, life span of individuals is increasing every year

and we cannot say that a man with 60 years would be incompetent to earn and maintain his family. Keeping the overall situation in mind, we are of the opinion that the multiplier to be applied in the instant case would be 3 instead of 0.97 as applied by the Tribunal. Therefore, the appellants are entitled to a total compensation of Rs. 2,16,000/- (6,000/- x 12 x 3). In all other respects the award of the Tribunal has to be confirmed though the Tribunal went wrong in awarding compensation towards funeral expenses and carrying the corpus from the place of accident to the hospital since there is no appeal by the Insurance Company.

6. Accordingly, the civil miscellaneous appeal is allowed in part. However, there shall be no order as to costs.