

ITEM NO.8 COURT NO.11 SECTION XIIA

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil)...../2010  
CC 9896/2010

(From the judgement and order dated 10/09/2009 in CMA No.1154/2004  
of The HIGH COURT OF A.P AT HYDERABAD)

ORIENTAL INSURANCE COMPANY Petitioner(s)  
VERSUS

B.RAMULAMMA & ANR Respondent(s)

With I.A. 1 (c/delay in filing SLP)

WITH  
S.L.P.(C)...CC NO. 10010 of 2010  
With I.A. 1 (C/delay in filing SLP and office report)

Date: 16/07/2010 This Petition was called on for hearing today.

CORAM :  
HON'BLE MR. JUSTICE G.S. SINGHVI  
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s) Mr. Manjusha Wadhwa,Adv.  
Ms. Meenakshi Chauhan,Adv.

For Respondent(s)

UPON hearing counsel the Court made the following  
O R D E R

These petitions are directed against the judgment of the  
Division Bench of Andhra Pradesh in CMA No.1154 of 2004 and  
CMA No.1487 of 2004 respectively whereby the compensation  
awarded to the claimants by Motor Accident Claims Tribunal-  
cum-Additional District Judge, Mahabubnagar has been enhanced  
from Rs.4,00,000/- to Rs.10,80,000/- with interest at the rate

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of 9% per annum.

The petitioners have also filed applications for  
condonation of 155 days delay in filing the special leave  
petitions.

We have heard learned counsel for the petitioner and  
perused the records.

For the reasons mentioned in the applications filed by  
the petitioners, delay of 155 days in filing of the special  
leave petitions is condoned.

However, we do not find any legal error in the impugned  
judgment, which may call for interference by this Court under  
Article 136 of the Constitution of India. The Division Bench  
of the High Court took notice of the fact that G. Prashanth  
Reddy and B. Ravi Kumar, both aged about 21 years were killed  
when their motor cycle was hit by a speedy tourist bus  
belonging to M/s. Venkatesh Bus Union; that after completing  
B.E. Course both were likely to get lucrative employment; that  
their classmates, who got employment were drawing salary upto

Rs.80,000/- and concluded that the dependents of the deceased were entitled to reasonable enhancement. The Division Bench then referred to various judgments of this Court, in some of which the yardstick of minimum wage has been made basis for determining the income of the deceased and proceeded to observe as under:

"Taking the gross salary of the Computer Engineers working in IT field or holding that the deceased would not have earned anything or taking meager income of the deceased, appears to be unreasonable and illogical. In view of the same, we are of the view that the salary of an employee, who is the classmate of the deceased, when he entered into service in any government or private sector, after completing any course of B.Tech or M.Tech course, can be taken as basis for determining the income of the deceased. It is common knowledge and not

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disputed across the bar that the basic pay of a new entrant into the Government or private sector, who possesses B.E. or B.Tech qualification, is Rs.8000/- and his total emoluments are not less than Rs.20,000/- per month. IN Central Government, the basic salary of an engineering graduate as per revised scales is Rs,15,600/- per month and plus grade pay is in between Rs.5,000/- to Rs.6,000/- per month. Even research scholars are getting more than Rs.10,000/- per month. In the notification No.36/2008, dated 30.12.2008, issued by the Andhra Pradesh Public Service Commission, Hyderabad, for the post of Assistant Executive Engineer in various departments, the prescribed qualification is shown as B.E./B.Tech in Civil/Mechanical/Electrical Engineering and the scale of pay is shown as Rs.9285-21550/-.

As discussed above, since there is no guarantee of employment in IT sector and there may be uncertainties in case of private companies, it may be more appropriate, reasonable and rationale to take the minimum wage or salary at entry level fixed by the government to such jobs, which the deceased after completing their course, would have got. Therefore, the basic salary of the new entrant into the profession, who is the classmate of the deceased, should be taken as basis for determining the income of a deceased, who died in a motor accident while studying.

There cannot be any controversy to say that the payment of wages less than the minimum wage is an offence. Nobody can deny the fact that the minimum wages have been fixed taking into consideration several factors to fulfill the basic needs of a worker and therefore, the same can be taken as basis for determining the income of a workman. It is common knowledge that the workers are being paid much more than the prescribed minimum wages in many scheduled employment. Therefore, where in a case it is proved that the deceased was earning more than the prescribed minimum wage, the same should be taken as criteria for fixing his income ignoring the minimum wages prescribed. Therefore, for all the scheduled employment, for which minimum wages have been

fixed, the same can be taken as basis for determining the income of a workman or employee,

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who died in a motor accident. The agricultural workers, technicians, drivers, electricians, shop employees, almost all categories of workers and employees have been covered under the schedules of Minimum Wages Act. Where there is no scheduled employment prescribed under the Minimum Wages Act, the wage can be fixed basing on the wages fixed to the worker or employee who does similar nature of work. That means the income of a worker can be determined basing on the income earned by a worker doing the similar work. For non-scheduled jobs the salary fixed by the government at entry level can be taken as guidance. The job, which the deceased would have secured had he not died in the motor accident, and the salary of his classmates should be the basis. Similarly where the students have acquired basic qualifications such as Electrician, Fitter, Technician, Driver etc., and who died or sustained permanent disability, their income may be fixed on the basis of the income prescribed under the Minimum Wages Act or on the basis of the income earned by the newly appointed persons to such jobs whichever is on higher side. As far as the students, who completed or in final year or last semester of B.Tech, B.E., B.C.A., M.Tech., M.E. or M.B.A., M.C.A. etc. courses and who died in motor accidents or sustained permanent disability, their salaries also can be fixed on the basis of the salary of their classmates when they entered into jobs. Some percentage say e.g. 10% per year can be deducted in respect of the students studying III year or II year as the case may be.

In view of the present salaries, being earned by the Computer engineers, there cannot be any doubt to say that the deceased would have earned minimum Rs.12,000/- to Rs.15,000/- per month. It has to be seen that nowadays Ivth class employees are also getting minimum Rs.7,000/- to Rs.10,000/- per month depending upon their service. The Junior Assistants are also getting Rs.12,000/- to Rs.15,000/- per month. Therefore, considering the normal scales being earned by the Government employees and also the minimum wage scales fixed to the technical persons, we are of the view that the minimum salary of a technical person, who is holding a bachelor degree in computers or electronics or mechanical, can be taken as

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Rs.12,000/- per month. Therefore, the income of the graduates in engineering i.e., B.Tech., cannot be fixed less than Rs.12,000/- per month, otherwise it amounts to neglecting the ground of reality. Similarly those who have completed M.Tech., MCA., MBA., the income of such persons can be fixed a little higher i.e., at Rs.15,000/- per month. This will take care of the additional income which they would have earned in course of the service.

In view of the above discussion, we are of the

considered view that the minimum income of B.E. Graduate can be fixed at Rs.12,000/- per month."

The High Court finally enhanced the compensation from Rs.4,00,000/- to Rs.10,80,000/- in both the cases.

In our view, the enhancement granted by the Division Bench of the High Court is based on sound reasons and the impugned judgment does not call for interference by this Court under Article 136 of the Constitution.

The special leave petitions are accordingly dismissed.

(A.D. Sharma)  
Court Master

(Phoolan Wati Arora)  
Court Master