

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A.No.1582 OF 2005

JUDGMENT:

Dissatisfied with the award of Rs.60,000/- granted by the Tribunal towards compensation for the injuries sustained by the petitioner, the instant appeal is preferred seeking enhancement. The Tribunal by the order dated 29.03.2005 in O.P.No.135 of 2002 on the file of the Chairman, Motor Accidents Claims Tribunal - cum - IV Additional District Judge(Fast Track Court) at Tirupathi, granted the said amount as against the claim of Rs.1,50,000/-, laid under Section 166(1)(c) of the Motor Vehicles Act, 1988.

2. For the sake of convenience, the parties are hereinafter referred to as arrayed in the O.P. before the Tribunal.

3. The facts in brief are that on 09.10.2001 at about 8.00 a.m., one Nagamani (herein after referred to as 'the deceased') was standing at the bus stop in Motupalem village along with her father, the first petitioner herein, to go to the school. At that time, since the driver of the bus bearing No.AP 9Z 9216 driven it in a rash and negligent manner and unable to control its speed, ran over the legs of the said Nagamani. She was shifted to Government Hospital, Sathyavedu, but she succumbed to injuries on the same day. The Station House Officer, Sathyavedu registered a case in Crime No.228 of 2001 under Section 304(A) IPC against the bus driver. The petitioners, therefore, claimed Rs.1,50,000/- as compensation from the respondent-Corporation.

4. Respondent Corporation filed counter opposing the claim stating that there was no negligence on the part of the driver and the accident occurred due

to the negligence of the first petitioner and sought for dismissal of the claim.

5 . The Tribunal has framed three issues in the direction of fixing responsibility for the accident. During enquiry, P.Ws.1 and 2 were examined and Exs.A-1 to A-6 were marked. On behalf of the respondent-corporation, R.Ws.1 and 2 were examined and Ex.B1 was marked.

6. The Tribunal, on appraisal of evidence, while discarding the evidence of R.W.1, the driver of the bus excluding Ex.B1 the judgment in C.C.No.328 of 2001, on facts held issue No.1 in favour of the petitioners. On issue No.2, placing reliance on the judgment of this Court in **NEW INDIA ASSURANCE COMPANY LIMITED v. PALAGIRI HASSAN** awarded Rs.50,000/- towards compensation and Rs.10,000/- towards transport charges, pain and suffering and compensation for love and affection, granted a total sum of Rs.60,000/- with interest at 9% per annum.

7. Learned counsel for the appellants filed a memo reporting the death of the first petitioner, who is the husband of the second petitioner and also stating that there are no other heirs and therefore, to treat the second petitioner as legal representative of the deceased first petitioner. The memo is accepted treating the second petitioner as sole legal heir of the deceased first petitioner.

8. Heard Sri N.Bharat Babu, learned counsel for the appellants and Sri Arava Rama Rao, learned standing counsel for the respondent-Corporation. Perused the order and the evidence let in by both the parties.

9. Taking place of accident is not in dispute and death of Naga Mani aged four years as on the date of accident is also not in dispute. The very fact that while the deceased was going to school accompanied by her father, the incident has occurred shows that she was a school going child. However, coming to the compensation awarded by the Tribunal, in view of the decision of the Hon'ble Apex Court in **PUTTAMMA AND OTHERS v. K.L.NARAYANA**

REDDY AND ANOTHER a sum of Rs.1,00,000/- is granted and, thus, the petitioners are entitled to Rs.1.00 lakh. The Tribunal has granted Rs.10,000/- and the same is maintained. However, so far as the rate of interest is concerned, the same is reduced to 7.5% p.a. from 9% in view of the decision of the Hon'ble Apex Court in **RAJESH AND OTHERS v. RAJBIR SINGH AND OTHERS**.

10. Accordingly, the Civil Miscellaneous Appeal is allowed in part modifying the impugned award passed by the Tribunal, by enhancing the compensation from Rs.60,000/- to Rs.1,10,000/- and reducing the interest from 9% to 7.5% as stated supra. There shall be no order as to costs.

11. As a sequel thereto, Miscellaneous Applications, if any, pending in this appeal stand disposed of.

A. SHANKAR NARAYANA, J

March 13, 2015.

Rns