

**HON'BLE SRI JUSTICE A. SHANKAR NARAYANA**

**MACMA No. 1118 OF 2005**

**Judgment:**

Seeking enhancement of compensation, as the Chairman, Motor Accidents Claims Tribunal-cum-II Additional District Judge (Fast Track Court), Adilabad (for short 'the Tribunal'), passed order, dated 01<sup>st</sup> March 2005, in OP No. 265 of 2001, awarding a sum of Rs.80,000/- towards compensation for the death of the daughter of the petitioner as against the claim of Rs.1,50,000/- laid under Sections 166 (1) (a) and 163-A of the Motor Vehicles Act, 1988 (for short 'the Act') read with Rule 455 of the Andhra Pradesh Motor Vehicle Rules 1989, the instant appeal is preferred.

2. For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Tribunal in the Original Petition.

3. The facts, in brief, are that on 09.04.2001 at about 8.30 AM, one Seetha Bai, the daughter of the petitioner, was proceeding in a Jeep bearing registration No.MH-34-6060 from Sunkidi village to Ichoda to attend her X Class examinations and when the said Jeep reached near Ponna cross roads the driver of the said jeep applied sudden brakes and since he was driving it in a rash and negligent manner at high speed, the said Seetha Bai fell down from the Jeep and sustained grievous injuries. She was immediately shifted to Government Hospital, Adilabad, for treatment, but she succumbed to injuries on the same day in the hospital while undergoing treatment. The petitioner claimed that, she was 19 years old on the date of accident, earning Rs.1200/- per month by doing tailoring work also, besides prosecuting her studies that, a report was also given to the police who registered a case against the driver of the Jeep and, therefore, sought the aforesaid amount as compensation.

4. The first respondent remained *ex parte*. The second respondent – Insurance Company opposed the claim requiring the petitioner to prove the material

allegations mentioned in the petition. It is also stated that the deceased was only a minor and she was not an earning member.

5. The Tribunal, based on the said pleadings, framed three issues about the responsibility for the accident. During enquiry, the petitioner besides examining himself as PW.1 also examined one Seetharam as PW.2 and marked Exs.A1 to A6. On behalf of the second respondent – Insurance Company, Ex.B1 – copy of driving license was marked and no witnesses were examined.

6. The Tribunal, on appraisal of evidence on issue No.1, held it in favour of the petitioner.

7. On issue No.2, the Tribunal, holding that, even under no fault liability for a death in an accident, Rs.50,000/- would be the compensation and computing at the rate of Rs.1,000/- per annum and taking the age of the deceased as 18 years, added Rs.18,000/- besides adding Rs.2,000/- towards funeral expenses and also awarding Rs.10,000/- for loss of estate and, thus, a total sum of Rs.80,000/- was granted by the Tribunal.

8. It is the aforesaid order which is under challenge in the instant appeal contending in the grounds of appeal that the Tribunal awarded meagre amount without properly appreciating the evidence on record, therefore, sought to grant balance amount.

9. Heard Sri S. Chandra Sekhar, learned counsel for the appellant, and Sri Srinivasa Rao Vutla, learned counsel for the second respondent – Insurance Company. The claim against the first respondent was dismissed for default, by the orders, dated 03.01.2012, however, it makes no difference, since the first respondent remained *ex parte* before the Tribunal, as per the decision of the Division Bench of this Court in **Meka Chakra Rao v. Yelubandi Babu Rao @ Reddemma.**

10. Perused the order and the evidence on record both, oral and documentary, let in

by the petitioner. Except the self serving statement of the petitioner that the deceased was attending to tailoring work, there is no concrete evidence on record to prove the same. Further, the amount granted by the Tribunal at Rs.80,000/- towards compensation, as narrated above, appears to be on lower side. Keeping in view, the decision of the Hon'ble Apex Court in **Puttamma v. K.L. Narayana Reddy**, concerning non-earning member, aged more than five years, award of compensation of Rs.1,50,000/- is permissible, till such time the amendment suggested by the Hon'ble Apex Court to the second Schedule to Section 163-A of the Act is introduced. In such an event, the petitioner is entitled to a total sum of Rs.1,50,000/- as compensation including conventional sum also as against Rs.80,000/- granted by the Tribunal, however, with interest at 7.5% p.a., as per the decision of the Hon'ble Apex Court in **Rajesh and others v. Rajbir Singh and others**, on Rs.1,50,000/- from the date of petition till realisation. The petitioner is permitted to withdraw the entire amount.

11. Accordingly, the MACMA is allowed. There shall be no order as to costs.

12. As a sequel thereto, the Miscellaneous Applications, if any, pending in this appeal shall stand closed.

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**A. SHANKAR NARAYANA, J**

Date: 30.03.2015

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