

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

MACMA No. 2832 of 2005

Judgment:

The second respondent – National Insurance Company Limited preferred the instant appeal questioning the award and decree passed on 21.06.2005 in OP No.208 of 2000 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-II Additional District Judge (Fast Track Court), Adilabad, on the ground that the post-mortem examination report would show that the death of the deceased was due to cardio respiratory arrest due to natural death and that the Tribunal went wrong in recording that the death occurred due to accident. By the aforesaid order the Tribunal granted total claim amount of Rs.1,50,000/-, which claim was laid under Sections 166 and 163-A of the Motor Vehicles Act, 1988 (for short 'the Act').

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

3. The facts would show that the deceased, Haneefa Bee was proceeding to her house on 24.04.1999 at Nagasamudram on foot on the road leading from Laxetipet to Nirmal and, when she reached Nagasamudram village, a Tractor bearing registration No.ABK-9170, coming from Dandepalli village driven by its driver in a rash and negligent manner at high speed, dashed her, due to which, she sustained fracture of left leg and other injuries all over her person. On a complaint, a case was also registered against the driver of the Tractor. She was shifted to Government Hospital, Laxetipet, and from there for special treatment, she was advised to shift to Super Speciality Hospital, at Hyderabad, but due to paucity of funds she was not taken to any hospital, but she was taken to her house. She succumbed to injuries on 28.04.1999. Post-mortem examination was also conducted on her. She was 50 years old. According to the petitioners, she was

earning Rs.60/- to 70/- per day by selling milk and another Rs.50/- to 60/- per day by doing coolie work and, therefore, petitioners claimed Rs.1,50,000/- as compensation.

4. Both the respondents filed their respective counters opposing the claim.

5. The Tribunal framed three issues in order to fix the responsibility for the accident.

6. During enquiry, the first petitioner himself was examined as PW.1 and Exs.A1 to A5 were marked. On behalf of the respondents no witnesses were examined and no documents were filed.

7. The Tribunal, on appraisal of evidence let in by the petitioners, held issue No.1 in favour of the petitioners. On issue No.2, taking the age of the deceased as 55 years and annual income at Rs.21,000/-, deducted 1/3rd towards personal expenses and the remainder, Rs.14,000/- per annum was taken for determining the compensation. The Tribunal applied the multiplier '8' as per the II Schedule to Section 163-A of the Act and arrived at Rs.1,12,000/-. The Tribunal also granted Rs.15,000/- towards loss of consortium, Rs.15,000/- towards loss of estate and Rs.8,000/- towards funeral, transport and medical expenses, making a total sum of Rs.1,50,000/-.

8. It is the aforesaid order which is under challenge in the instant appeal preferred by the Insurance Company contending that Ex.A3 – post-mortem examination report would show that the death of the deceased was due to cardio respiratory arrest due to natural death and, therefore, contends that the Tribunal ought not to have determined the compensation on the basis of loss of dependency.

9. Heard Sri Naresh Byrapaneni, learned counsel for the appellant – Insurance Company, and Sri S. Surender Reddy, learned counsel for

respondents 1 to 4. A memo was filed by the appellant that respondent No.5 is not a necessary party.

10. It is no doubt true that in Ex.A3 – Post-mortem examination report, it is so stated by the Doctor that the death of the deceased was due to cardio respiratory arrest due to natural death and Post-mortem examination certificate was filed by the petitioners, but, the respondent – Insurance Company has not taken any steps to examine the Doctor to prove the cause of death. However, in view of the fact that the death of the deceased had taken place within a span of five days from the date of accident, certainly, is sufficient to hold that the proximate cause of death was on account of injuries caused in the accident.

11. Concerning the amount granted by the Tribunal, the Tribunal awarded Rs.1,50,000/- as compensation. Even, in case of death of a non-earning member, who is less than 15 years, but above 5 years, the Hon'ble Apex Court in **Puttamma v. K.L. Narayana Reddy**^[1], held that granting compensation of Rs.1,50,000/- would be permissible. Hence, the amount granted by the Tribunal is just and adequate warranting no interference at all.

12. The Tribunal has granted interest at 9% p.a., but the same is reduced to 7.5% p.a., in view of the decision of the Hon'ble Apex Court in **Rajesh and others v. Rajbir Singh and others**^[2].

13. Accordingly, the instant MACMA is partly allowed reducing the rate of interest from 9% p.a., to 7.5% p.a., but confirming the award and decree under challenge in all other respects. There shall be no order as to costs.

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

Date: 28.12.2015
Nsr

[\[1\]](#) 2014 ACJ 526
[\[2\]](#) 2013 ACJ 1403 = 2013(4) ALT 35