

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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M.A.C.M.A. No.2389 of 2005

JUDGMENT:

This is an appeal preferred by the parents of the deceased seeking enhancement of compensation of the awarded amount of Rs.57,000/- in O.P. No.155 of 2000, by the Motor Accidents Claims Tribunal-cum-Additional District Court, Hindupur (for short, 'the Tribunal').

The case of the claimants was that on 13.11.1999 at about 10.30 A.M. when the father of the deceased girl, who was aged about four years, along with her was returning to their house located in Appalavandlapalli Village by the side of Kothacheruvu-penukonda road, a lorry bearing registration No.A.P.16/T 4566 came from Kothacheruvu side and was driving at high speed, dashed the deceased, who fell down under the wheel of the lorry and died instantaneously. They filed a claim petition claiming an amount of Rs.3.00 lakhs for the death of child.

The Tribunal framed the following issues:

- 1) Whether the death of the deceased S.Divya Bai is the resultant of the accident due to rash and negligent driving of the vehicle bearing Regn. No.A.P.16/T.4566 as alleged in the petition?
- 2) Whether the petitioners are legal heirs of the deceased?
- 3) Whether the petitioners are entitled to the compensation amount, and if so, to what amount and from which of the respondents?
- 4) To what relief?

Before the Tribunal, petitioner No.1 was examined as PW1 and exhibited four documents.

The Tribunal, on the basis of evidence, held that the accident occurred due to rash and negligent driving of the driver of

the lorry. With regard to the compensation, the Tribunal noticed that the child was aged about four years, and accordingly, awarded an amount of Rs.55,000/- besides amount of Rs.2,000/- towards funeral expenses, by its award dated 31.10.2001.

Learned counsel for the appellants, by placing reliance on the decision of the Supreme Court in **Lata Wadhwa v. State of Bihar**^[1], submits that in the case of children aged about five to ten years, a minimum compensation of Rs.2.00 lakhs should have been awarded.

It is very difficult to assess the loss of income or compensation due to the death of child of tender age. The decided cases give some guidance and in view of the above decision, this Court feels it just and proper to award an amount of Rs.2,00,000/- (Rupees two lakhs only) as compensation for the death of the child of the parents. The enhanced amount of compensation shall carry interest at the same rate of 9% per annum from the date of petition till the date of realisation.

Accordingly, this Appeal is partly allowed enhancing the compensation from Rs.57,000/- to Rs.2,00,000/-. No order as to costs.

Miscellaneous Petitions, if any, pending in this appeal shall stand closed.

A.RAMALINGESWARA RAO, J

20.01.2016

MVA

^[1] 2001 (8) SCC 197