

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.1608 of 2009

JUDGMENT :

The instant Civil Miscellaneous Appeal is preferred by the appellants-petitioners, aggrieved by the judgment and decree dated 19.10.2006, passed in M.V.O.P.No.270 of 2005 by the Chairman, Motor Accidents Claims Tribunal-cum-I Additional District Judge, Kurnool (for brevity "the Tribunal"), whereby and whereunder a sum of Rs.59,000/- was awarded towards compensation with interest @ 7.5% per annum, as against the claim of Rs.1,00,000/-, laid under Sections 140 and 166 of the Motor Vehicles Act, 1988, for the death of their son in a road accident that occurred on 26.02.2005, seeking enhancement of compensation.

2. The appellants herein are petitioners, respondent No.1 is the owner of offending Auto bearing No.AP 21-V 9317; and respondent No.2 – New India Assurance Company Limited is respondent No.2 in M.V.O.P.No.270 of 2005. For the sake of convenience, the parties are referred to as they are arrayed in M.V.O.P.No.270 of 2005 before the Tribunal.

3. The fact situation is not in dispute and the death of the son of the petitioners in a road accident, at the age of 8 years, is also not in dispute. The only dispute is with regard to quantum of compensation awarded by the Tribunal, on the ground that the Tribunal has not granted just and fair compensation.

4. Heard Sri B. Siva Kesava Reddy, learned counsel for the

appellants/petitioners.

5. Sri Sriman, learned Standing Counsel for the 2nd respondent – Insurance Company would fairly submit that the compensation awarded by the Tribunal for the death of the son of the petitioners, at the age of 8 years, is not just and reasonable.

6. No probe is required, except to hold that the law declared by the Hon'ble Supreme Court in **Puttamma v. K.L. Narayana Reddy**^[1] has to be applied, granting compensation of Rs.1,50,000/-, keeping in view that the deceased was not an earning member and he was just 8 years old at the time of death, falling in the age group of above 5 years and below 14 years.

7. Accordingly, the Civil Miscellaneous Appeal is allowed, enhancing the amount of compensation from Rs.59,000/- to Rs.1,50,000/- (Rupees one lakh fifty thousand only) with interest at 7.5% per annum, as awarded by the Tribunal, on the enhanced amount of compensation also, from the date of the petition till realisation. No order as to costs.

8. At this stage, learned Standing Counsel for the 2nd respondent – Insurance Company contended that the Tribunal ought to have given a direction to the Insurance Company initially to pay the compensation amount and recover the same from the 1st respondent – owner of the offending Auto, in view of the fact that the driver of the offending Auto was not holding a valid driving licence, but, still driving a transport vehicle, at the relevant time of accident. However, as submitted by the learned Standing Counsel, no such finding was recorded by the Tribunal in the impugned judgment and the appeal is filed by the petitioners seeking

enhancement of compensation. Hence, that argument would not sustain.

9. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE A. SHANKAR NARAYANA

11.08.2016.

Msr

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.1608 of 2009

11.08.2016
Msr

[\[1\]](#) 2014 ACJ 526