

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.1590 OF 2009

JUDGMENT:

On the ground that the learned Chairperson, Motor Accident Claims Tribunal - cum - I Additional District Judge, Kurnool (for short 'the Tribunal') has granted a meager sum of Rs.63,000/- as compensation for the death of one P. Ravi, son of petitioners, aged 13 years, prosecuting 6th class as against the claim of Rs.1,50,000/- , the present appeal is preferred under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act') by the petitioners seeking enhancement.

2. The aforesaid order was passed by the Tribunal in M.V.O.P. No.429 of 2005 on 27-12-2006. The claim was laid under Sections 140 and 166 of the Act for grant of Rs.1,50,000/-.

3. The appellants herein are the petitioners, while respondent Nos.1 and 2, who are owner and insurer of the said tractor and trailer bearing registration Nos.AP 21U 9795 and 9796, respectively, are respondents as such in the MVOP before the Tribunal.

4. For the sake of convenience, the parties are hereinafter referred to as they were arrayed in the MVOP

before the Tribunal.

5. Heard Sri A. Jayasankara Reddy, learned counsel for the appellants – petitioners, and Sri R. Venkat Rao, learned standing counsel for respondent No.2 - Insurance Company. It is endorsed in the cause title of the grounds of appeal that respondent No.1 is not a necessary party. Even respondent No.1, who is owner of the vehicle, remained *ex parte* before the Tribunal and suffered decree for the amount granted. Therefore, his absence makes no difference in deciding the request herein.

6. Perused the order and the material on record, both, oral and documentary.

7. Irrespective of the merits in the instant appeal, in view of the law declared by the Hon'ble Supreme Court in **Puttamma v. K.L. Narayana Reddy**^[1], the petitioners are entitled to Rs.1,50,000/-. If noted the expression of the Hon'ble Supreme Court in the said decision it is thus:

“58. The Central Government was bestowed with duties to amend the Second Schedule in view of Section 163-A(3), but it failed to do so for 19 years in spite of repeated observations of this Court. For the reasons recorded above, we deem it proper to issue specific direction to the Central Government through the Secretary, Ministry of Road Transport & Highways to make the proper amendments to

the Second Schedule table keeping in view the present cost of living, subject to amendment of Second Schedule as proposed or may be made by the Parliament. Accordingly, we direct the Central Government to do so immediately. Till such amendment is made by the Central Government in exercise of power vested under sub-section (3) of Section 163A of Act, 1988 or amendment is made by the Parliament, we hold and direct that for children upto the age of 5 years shall be entitled for fixed compensation of Rs.1,00,000/-(rupees one lakh) and persons more than 5 years of age shall be entitled for fixed compensation of Rs.1,50,000/- (rupees one lakh and fifty thousand) or the amount may be determined in terms of Second Schedule whichever is higher. Such amount is to be paid if any application is filed under Section 163A of the Act, 1988.”

In view of the above decision, the compensation is enhanced to Rs.1,50,000/- from Rs.63,000/- granted by the Tribunal.

8. The interest granted by the Tribunal at 7.5% per annum is maintained and even on the enhanced amount in view of the decision of the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**^[2].

9. In the result, the appeal is allowed, and the order and decree, dated 27-12-2006, in M.V.O.P. No.429 of 2005, passed by the Tribunal are modified enhancing the

compensation to Rs.1,50,000/- (Rupees one lakh and fifty thousand) from Rs.63,000/- with interest at the rate of 7.5% per annum from the date of petition till realization. No order as to costs.

As a sequel thereto, miscellaneous applications, if any, pending in the appeal, stand disposed of.

A. SHANKAR NARAYANA, J

August 05, 2016.

Mgr

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

[\[2\]](#) . 2013 ACJ 1403