

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.2675 OF 2009

JUDGMENT:

The parents of the deceased - Gedela Tejeswara Rao, preferred the present appeal under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act') having got dissatisfied with the award of Rs.1,00,000/- as compensation, by the order and decree, dated 09-03-2009, in M.V.O.P. No.88 of 2007, on the file of the Chairman, Motor Accident Claims Tribunal - cum - District Judge, Srikakulam (for short 'the Tribunal'), as against the claim laid for Rs.2,29,500/- under Section 166 of the Act for his death in a road accident at the age of 10 years that occurred on 04-12-2005 at about 4.30 p.m. near Market Committee, Kothapeta village, Kotabommali Mandal, Srikakulam District, when a car bearing registration No.OR 05N 3303 came and hit him while he was riding a bicycle by the left side of National Highway No.5 and succumbed to injuries while undergoing treatment; the appellants sought enhancement of compensation.

2. The Tribunal having framed three issues and examining PW.1 and marking Exs.A-1 to A-5 on behalf of the petitioners and recording findings in favour of the petitioners, granted a *lump sum* amount of Rs.1,00,000/- towards compensation. Of course, no witnesses were examined and no documents were filed on behalf of

respondent No.2 - M/s. National Insurance Company Limited, which contested the claim.

3. Heard Sri Aravala Rama Rao, learned counsel for the appellants. Respondent No.1, since indicated as not necessary party in the grounds of appeal, no notice was taken out. Though, service was completed on respondent No.2 - Insurer, none appears for it.

4. Perused the order and the evidence on record. It is the submission of the learned counsel for the appellants that recent decisions of the Hon'ble Supreme Court would indicate that, even for a student, who dies in a road accident, at tender age, an amount in between Rs.1,50,000/- and Rs.2,25,000/- is awarded and, therefore, he requests for grant of balance amount.

5. The deceased was prosecuting third class as could be seen from the inquest report marked as Ex.A-4. Of course, he was aged 10 years on the date of the accident. It is not the case of the appellants that they have admitted the deceased in a private school by paying substantial amounts towards tuition fee and other fee. Therefore, the law laid down by the Hon'ble Supreme Court in **Puttamma v. K.L. Narayana Reddy**¹, would squarely apply; as admittedly, the deceased was not an earning member on the date of the accident. Therefore, a sum of Rs.1,50,000/- (Rupees one lakh and fifty thousand) is

¹ 2014 ACJ 526

awarded enhancing the compensation from Rs.1,00,000/- granted by the Tribunal, by maintaining the rate of interest at 7.5% per annum.

6. Accordingly, the appeal is allowed in part to the extent indicated above. There shall be no order as to costs.

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

A. SHANKAR NARAYANA, J

November 08, 2016.

Mgr

