

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A.No.3201 OF 2005

JUDGMENT:

Having got dissatisfied with the award of Rs.1,62,000/- as compensation by order and decree, dated 09.08.2005, in M.V.O.P. No.836 of 2002 on the file of Chairman, Motor Accidents Claims Tribunal - cum - Principal District Judge, Cuddapah (for short, 'the Tribunal') as against the claim of Rs.2,50,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') for the death of one Avvaru Pattabhiramaiah, who was father of appellant Nos.1 to 3 and husband of appellant No.4, in a road accident, the instant appeal is preferred under Section 173 of the Act seeking enhancement of compensation.

2. Appellant Nos.1 to 4 are petitioner Nos.1 to 4, whereas respondent Nos.1 and 2, who are owner and insurer of the jeep bearing registration No.HRT 9666, are respondent Nos.1 and 2, respectively, in the Original Petition.

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

4. The facts in brief are that on 02.05.1987 at

about

08:30 AM, one Avvaru Pattabhiramaiah (deceased) boarded the jeep bearing registration No.HRT 9666 at Madhavaram, Cuddapah District, which belongs to his close friend, along with one Eeragamreddy Subba Reddy, father of the jeep owner, and others, and when they crossed Bhakarapet and reached near the curve, since the driver of the jeep drove it in a rash and negligent manner at high speed in order to reach Cuddapah to attend relative's marriage and was unable to control the speed, the jeep rolled itself and fell down, due to which, the deceased died instantly and others received injuries. The petitioners, claiming that the deceased was 38 years old on the date of accident earning Rs.7,000/- per month by doing jary business maintaining looms for weaving sarees, sought a sum of Rs.2,50,000/- as compensation from respondent Nos.1 and 2, who are the owner and insurer of the accident vehicle.

5. Respondent No.1-owner remained *ex parte*. Respondent No.2-insurer resisted the claim by raising various pleas and sought to exonerate it by dismissing the claim petition against it.

6. Basing on the said pleadings, the Tribunal framed three issues about the responsibility for accident. During enquiry, petitioner No.1 examined herself as P.W.1 besides examining one D.B. Pulla Reddy, an eyewitness

to the occurrence, as P.W.2 and marked Exs.A.1 to A.5 to substantiate the claim laid. On behalf of respondent No.2- Insurer, its official from the local branch was examined as R.W.1, but no documents were filed.

7. On appraisal of evidence on record, the Tribunal held issue No.1 in favour of the petitioners. On issue No.2, the Tribunal, taking the age of the deceased as 55 years and notional income at Rs.1,500/- per month, as no evidence was placed on record to arrive the income of the deceased at Rs.7,000/- per month, deducted 1/3rd therefrom towards personal expenses and by applying multiplier '11', arrived the loss of dependency at Rs.1,32,000/-. The Tribunal also granted Rs.15,000/- towards loss of consortium to petitioner No.4 and Rs.15,000/- towards funeral expenses, transport charges, loss of estate and mental agony and suffering, thus, totalling to a sum of Rs.1,62,000/- with interest at 7.5% per annum by apportioning the amount amongst the petitioners.

8. It is the aforesaid order which is under challenge in the instant appeal contending in the grounds that the Tribunal has not awarded just and fair compensation.

9. No representation for the appellant. Sri N.J. Sunil Kumar, learned counsel for respondent No.2 – Insurance Company argued the matter. The instant appeal was

dismissed against respondent No.1 by order, dated 06.01.2012. However, such dismissal is of no consequence in view of the decision of a Division Bench of this Court in **Meka Chakra Rao v. Yelubandi Babu Rao @ Reddemma and others**^[1], as respondent No.1 suffered decree passed by the Tribunal.

10. The only controversy in the instant case is that the Tribunal has not determined just and fair compensation as required by the provisions of Section 166 of the Act.

11. The claim was laid under Section 166 of the Act for the death of the husband of petitioner No.4. Learned counsel for respondent No.2 would fairly concede that, keeping in view, the profession the deceased was pursuing and that the deceased was aged between 50 and 55 years, the claim for Rs.2,50,000/- towards compensation made by the petitioners is just and reasonable and the same can be awarded by enhancing the compensation from Rs.1,62,000/- to Rs.2,50,000/-.

12. In that view of the matter, the appeal is allowed and the compensation awarded by the Tribunal is enhanced from Rs.1,62,000/- to Rs.2,50,000/- with interest at 7.5% per annum as awarded by the Tribunal from the date of petition till realisation on the said amount, giving credit to the amount, if any, already deposited.

There shall be no order as to costs.

13. As a sequel thereto, Miscellaneous Applications,
if any, pending in this appeal shall stand disposed of.

A. SHANKAR

NARAYANA, J

March 31, 2016.
MD

[\[1\]](#) 2001 (1) ALT 495 (D.B.)