

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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M.A.C.M.A. No.2419 of 2005

JUDGMENT:

This appeal is preferred, against the award in O.P.No.68 of 2002 on the file of the Motor Accidents Claims Tribunal-cum-III Additional District Judge (Fast Track Court) at Asifabad (for short, 'the Tribunal'), seeking enhancement of compensation, awarded in award dated 15.02.2005.

The appellants are the parents of the deceased. They filed a claim petition stating that on 20.10.2001 at about 8.30 hours when their daughter along with her friends were proceeding in a R.T.C. bus bearing registration No.AP-9Z-9886 from Srirampur to Indaram and when the bus reached near Indaram bus stand and while she was getting down from the bus, the driver of the bus suddenly started; as a result of which, she fell down and received head injuries. Immediately she was taken to the Government Hospital and she succumbed to the injuries on 22.10.2001. It was stated that she was aged about 18 years and was earning Rs.2,000/- per month.

Respondent No.1 denied the manner of the accident.

The Tribunal framed the following issues for consideration:

- 1) Whether the deceased died in the accident occurred on 20/10/2001 due to rash and negligent driving of RTC Bus No.AP-9Z-9886 by its driver?
- 2) Whether the petitioners are entitled to any compensation? If so, to what amount and against whom?
- 3) To what relief?

Before the Tribunal, petitioner No.1 was examined as PW1 and examined one independent witness as PW.2. He marked five documents.

The Tribunal, on the basis of oral and documentary

evidence, held that the accident occurred due to rash and negligent driving of the R.T.C. bus by its driver.

The Tribunal noticed that the age of deceased was 10 years, but not 18 years, as on the date of accident. Accordingly, it awarded minimum compensation of Rs.50,000/- and also an amount of Rs.2,000/- towards funeral expenses, by award dated 15.02.2005.

Learned counsel for the appellants submits that as per the decision of the Supreme Court in **Kishan Gopal v. Lala**^[1] when the defendant was the minor, the age of one of the younger parents should be taken into consideration and appropriate compensation should be awarded.

In the said case, the Supreme Court relied upon the decision of **Lata Wadhwa v. State of Bihar**^[2] and held that the notional income should be taken at Rs.30,000/- and the younger age of parents should be taken for the purpose of applying the multiplier as per the decision of **Sarla Verma v. Delhi Transport Corporation**^[3]. If the same is applied in the instant case, the total compensation comes to Rs.4,50,000/-, and as awarded by the Supreme Court in the **Kishan Gopal's** case (Supra) an amount of Rs.50,000/- can awarded towards loss of love and affection, funeral expenses, last rites in addition to the amount calculated for determination of compensation. Hence, the present appeal is allowed awarding the amount of Rs.5,00,000/- (Rupees five lakhs only) to the appellants in place of Rs.52,000/-, awarded by the Tribunal, by its award dated 15.02.2005, and the enhanced amount beyond Rs.1,50,000/- shall be paid to the claimants only after payment of the deficit Court fee. The enhanced amount of compensation shall carry interest @ 9% per annum from the date

of petition till the date of realisation.

Accordingly, this Appeal is allowed enhancing the compensation from Rs.52,000/- to Rs.5,00,000/-. No order as to costs. Miscellaneous Petitions, if any, pending shall stand closed.

A.RAMALINGESWARA RAO, J

20.01.2016

MVA

[\[1\]](#) 2014 (1) SCC 244

[\[2\]](#) 2001 (8) SCC 197

[\[3\]](#) 2009 (6) SCC 121