

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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M.A.C.M.A. No.2416 of 2005

JUDGMENT:

This appeal is preferred against the award dated 16.02.2005 passed in M.V.O.P. No.322 of 2002 on the file of the Motor Accidents Claims Tribunal-cum-III Additional District Judge, Fast Track Court, Cuddapah (for short, 'the Tribunal'), seeking enhancement of compensation.

The said O.P. was filed by the father and grandmother of the deceased claiming an amount of Rs.1,00,000/- for the death of one Mirbasha, who was aged about two years on the date of accident. It was alleged that on 25.09.1997 when he along with his mother boarded the respondent bus at Allagadda to go to Hyderabad and when the bus reached Krishna bridge on Kurnool Hyderabad National Highway, the driver of the bus drove the same in a rash and negligent manner and hit the bridge, due to which the bus fell down in the river and all the passengers including the deceased died except one Chinna Narayana and the driver of bus.

The Tribunal framed the following issues:

- "1) Whether the accident occurred on account of the rashness and negligence of the driver of R.T.C. bus bearing No.AP9Z 9296 at the bridge on 26-9-1997?
- 2) Whether the petitioners are entitled to any compensation and if so to what amount?
- 3) To what relief?"

Before the Tribunal, the first claimant was examined as PW1 and marked exhibits A1 to A5.

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,

taking the age of the deceased, awarded an amount of Rs.84,500/- . Seeking enhancement of the same, the present appeal is filed.

Learned counsel for the appellants, by placing reliance on the decision of the Supreme Court in **Lata Wadhwa v. State of Bihar**^[1], submits that in the case of children aged about five to ten years, a minimum compensation of Rs.2.00 lakhs should have been awarded.

It is very difficult to assess the loss of income or compensation due to the death of child of tender age. The decided cases give some guidance and in view of the above decision, this Court feels it just and proper to award an amount of Rs.2,00,000/- (Rupees two lakhs only) as compensation for the death of the child of the parents. The enhanced amount of compensation shall carry interest at the same rate of 9% per annum from the date of petition till the date of realisation.

Accordingly, this Appeal is partly allowed enhancing the compensation from Rs.84,500/- to Rs.2,00,000/-. No order as to costs.

Miscellaneous Petitions, if any, pending shall stand closed.

A.RAMALINGESWARA RAO, J

20.01.2016
MVA

^[1] 2001 (8) SCC 197