

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A No. 1140 OF 2009

JUDGMENT:

Dissatisfied with the award of Rs.60,000/- granted by the Motor Accidents Claims Tribunal – cum - IV Additional District Judge (F.T.C), Anantapur, through the order and decree, dated 09.04.2007, in O.P. No. 188 of 2006 as against the claim of Rs.1,00,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short ‘the Act’) read with Rule 455 of the A.P. Motor Vehicles Rules, 1989, the claimants, who are the parents of the deceased, preferred the present appeal seeking enhancement of compensation.

2. Heard Sri N. Aswartha Narayana, learned counsel for the claimants/appellants and Sri N.S. Bhaskar Rao, learned Standing Counsel for the second respondent – Insurance Company. Though, the first respondent – owner of the vehicle that involved in the accident was served, none appears on her behalf.

3. No probe is required as the facts in the present case are not in dispute. In fact, in view of the decision of the Hon'ble Apex Court in ***Puttamma v. K.L. Narayana Reddy***^[1], the appellants are entitled to Rs.1,50,000/-, since, while referring to the amendment proposed to Schedule - II of the Act by the Central Government, it was directed by the Hon'ble Supreme Court that till such amendment is made, children up to the age of five (5) years shall be entitled for a fixed compensation of Rs.1,00,000/- (Rupees one lakh only) and non-earning persons more than five years of age and below 15 years shall be entitled for a fixed compensation of Rs.1,50,000/- (Rupees one lakh and fifty thousand only) or the amount that may be determined in terms of Schedule - II of the Act; whichever is higher. The relevant observations of the Hon'ble Supreme Court contained in paragraph No.58 of ***Puttamma's Case*** (Supra 3) are, 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.”

4. No doubt, the claim in the instant case has been made under Section 166 of the Act. So far as payment of compensation is concerned, same principle can be applied to the claims laid under Section 166 of the Act also. Since, in the instant case, the deceased was seven years old on the date of her death, the appellants are entitled to Rs.1,50,000/- towards compensation.

5. The appellants laid the claim for Rs.1,00,000/- only, but, certainly, they cannot be deprived of ‘Rs.1,50,000/-’ though, it exceeds the claim made by them, in view of the decisions of the Hon’ble Apex

Court in ***Nagappa v. Gurudayal Singh and others***^[2], ***Sri Laxman @ Laxman Mourya v. Divisional Manager, Oriental Insurance Company Limited***^[3] and ***Rajesh and others v. Rajbir Singh and others***^[4], wherein, it was held that it is duty of the Courts to award just, equitable, fair and reasonable compensation with reference to the

settled principles of law irrespective of the claim made.

6. Thus, the appellants are entitled to a total compensation of Rs.1,50,000/- (Rupees one lakh and fifty thousand only) as against Rs.60,000/-, granted by the Tribunal, and the same is accordingly granted with interest at 7.5% per annum on the enhanced amount also from the date of petition till realisation.

7. Accordingly, the Civil Miscellaneous Appeal is allowed. There shall be no order as to costs.

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

A. SHANKAR NARAYANA, J

Date: 22.07.2016
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[\[1\]](#) 2014 ACJ 526

[\[2\]](#) AIR 2003 SC 674

[\[3\]](#) 2012 ACJ 191 (SC)

[\[4\]](#) 2013ACJ1403 = 2013(4)ALT35