HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

M.A. C.M.A. No.1481 OF 2005

JUDGMENT:

Dissatisfied with the award of Rs.3,01,568/- with interest at 9% per annum granted by the learned Chairman, Motor Accidents Claims Tribunal - cum - III Additional District Judge, Vijayawada, through the order and decree, dated 05.10.2004, in M.V.O.P. No.614 of 2001 as against the claim of Rs.5,00,000/- 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 petitioners preferred the instant Civil Miscellaneous Appeal seeking enhancement of compensation.

2. The appellants herein, who are wife, children and parents of Jamana Tarakeswara Rao, who died in the accident, are petitioners in the O.P. before the Tribunal while respondent Nos.1 to 3, who are driver, owner and insurer of the auto-rickshaw bearing No.AP-16-X-168 that involved in the accident, are respondent Nos.1 to 3, respectively.

3. For the sake of convenience, the parties are hereinafter referred to as they arrayed in the O.P. before the Tribunal.

4. Heard Sri T. Ravi Kumar, learned counsel for the petitioners (appellants), and Sri R. Venkat Rao, learned standing counsel for the insurer (respondent No.3).

5. No representation for respondent No.2, insured, and none appears for respondent No.1, driver of the auto-rickshaw, despite service of notice.

6. There is no dispute, so far as fact situation is concerned, the manner in which the accident had occurred on 01.10.2000 and even the finding recorded by the Tribunal on issue No.1 holding it in favour of the petitioners. The deceased, Tarakeswara Rao, who was working as a mason died on 02.10.2000, which was a day after taking place of the accident, due to head injury. Even, he being 37 years old as on the date of accident is also not in dispute which finding was rendered by the Tribunal. The monthly earnings of the deceased fixed by the Tribunal at Rs.2,400/- or Rs.28,800/- per annum stands maintained since the insurer has not preferred any appeal.

7. The aspects that require consideration are that in view of the latest pronouncements of the Hon'ble Supreme Court, the relevant multiplier is '15' as against '14.04' applied by the Tribunal and deduction should be $1/4^{th}$ instead of $1/3^{rd}$ towards personal expenses of the deceased as there are six claimants/dependants and

towards future prospects, 50% of the loss of dependency has to be added in terms of money. These are the only additions which should be made in the instant appeal.

8. Thus, annual income of the deceased is taken at Rs.28,800/- and when 1/4th thereof i.e., Rs.7,200/- (Rs.28,800/- x ¼) is deducted towards his personal expenses, his contribution to the family works out to Rs.21,600/-. When multiplier factor '15' is applied, the loss of dependency works out to Rs.3,24,000/- (Rs.21,600/- x 15).

The petitioners are also entitled to 50% thereof additionally towards future prospects which works out to Rs.1,62,000/-. Besides the same, the petitioners are also entitled to conventional sum of Rs.50,000/- in view of the decision of the Hon'ble Apex Court in **Ramilaben Chinubhai Parmar and others v. National Insurance Company and others**[1]**.**

9. Thus, the petitioners are entitled to a total compensation of Rs.5,36,000/- (Rupees five lakhs thirty six thousand only) as against Rs.3,01,568/- awarded by the Tribunal, and the same is accordingly awarded to the petitioners towards just and fair compensation as there is no bar to grant more than the claim amount in view of the decisions of the Hon'ble Supreme Court in **Nagappa v. Gurudayal Singh & others**[2] **Sarla Verma v. Delhi**

Transport Corporation[3], **Sri Laxman @ Laxman Mourya v. Divisional Manager, Oriental Insurance Company Limited**[4] and **Rajesh and others v. Rajbir Singh and others**[5] with interest at 9% per annum granted by the Tribunal on the amount of Rs.3,01,568/-, and, at 7.5% per annum in view of the decision in **Rajesh's Case** (Supra 5) on the enhanced amount of compensation from the date of petition till realisation.

The enhanced compensation shall be apportioned between the petitioners in the ratio as directed by the Tribunal.

10. Accordingly, the Civil Miscellaneous Appeal is allowed modifying the impugned order and enhancing the compensation,

as 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

July 8, 2016.

PV

---

[1]. **2014 ACJ 1430**

[2] **AIR 2003 SC 674**

[3] **(2009) 6 SCC 121**

[4] **2012 ACJ 191 (SC)**

[5] **2013ACJ1403 = 2013(4)ALT35**