

**HONOURABLE SRI JUSTICE A. SHANKAR
NARAYANA**

M.A. C.M.A. No.2051 OF 2005

ORDER:

The instant Civil Miscellaneous Appeal is preferred by the Insurance Company viz., United India Insurance Company Limited, Dhobighat Road, Kadapa, which is respondent No.2 in M.V.O.P. No.285 of 2003, challenging the order and decree therein, dated 19.11.2004, passed by the learned Chairman, Motor Accidents Claims Tribunal - cum - I Additional District Judge, Kadapa, whereby and whereunder, the Tribunal has awarded a sum of Rs.1,50,000/- as against the claim of respondent Nos.2 and 3 herein - petitioners for Rs.1,25,000/-, with interest at 9% per annum.

2. The facts of the case are not in dispute. The appellant carried the matter only in regard to challenging the quantum of compensation.

3. Heard Sri V. Sambasiva Rao, learned standing counsel for the appellant - insurer.

4. Despite service of notice, there is no representation on behalf of respondent No.1, owner of the tractor-trailer bearing No.AP-04-T-6555 that involved in the accident; and also respondent Nos.2 and 3,

petitioners - claimants, though, they made their appearance.

5. It is true, as seen from the order and the material on record, the claim itself was for Rs.1,25,000/-. The deceased boy was aged about four (4) years as on the date of accident. However, the Tribunal placing reliance on the decision of this Court in **Khushi Ram and another v. Hafiji and others** (2003 ACJ 452), and also the decisions of the Karnataka High Court in **Puttamma v. D.V. Krishnappa** (2000 ACJ 103) and **Haji Zainullah Khan (dead) by L.Rs. v. Nagar Mahapalika** [1994 ACJ 993 (SC)], observing that provisions of the Motor Vehicles Act, 1988 mandate that just compensation should be awarded, granted Rs.1,50,000/-.

6. It is now well settled law that the Tribunals and the Courts can grant compensation exceeding the amount claimed and, thus, the amount of Rs.1,50,000/- granted by the Tribunal, way back in 2004 cannot be interfered with at this distance of time keeping in view the fact that the petitioners lost their son at his prime youth, as such, the same is confirmed.

7. So far as the rate of interest granted by the Tribunal at 9% per annum is concerned, the same requires reduction in view of the decision of the Hon'ble

Supreme Court in **Rajesh and others v. Rajbir Singh and others**^[1], and, accordingly, the same is reduced to 7.5% per annum from 9% from the date of petition. There shall be no order as to costs.

8. Accordingly, the Civil Miscellaneous Appeal is allowed in part to the extent indicated above.

As a sequel thereto, Miscellaneous Applications, if any, pending in the revision stand disposed of.

A. SHANKAR NARAYANA, J

June 24, 2016.

PV

^[1] 2013ACJ1403 = 2013(4)ALT35