

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.1816 OF 2009

JUDGMENT:

Having got dissatisfied with the award of Rs.68,000/- as compensation by the order dated 07.04.2008 in M.V.O.P. No.417 of 2005 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-District Judge, Adilabad (for short, 'the Tribunal') as against the claim of Rs.2,50,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') for the death of one B.Sharada (deceased), a minor girl aged six years, who was daughter of the appellants, in a road accident, the instant appeal is preferred under Section 173 of the Act seeking enhancement of compensation.

2. Appellant Nos.1 and 2 herein, who are the parents of the deceased, are petitioner Nos.1 and 2, while respondent Nos.1 and 2, who are the owner and insurer of the auto-rickshaw bearing registration No.AP 1W 148, are respondent Nos.1 and 2, respectively, in the original petition.

3. For the sake of convenience, the parties hereinafter referred to as they were arrayed before the Tribunal in the original petition.

4. Heard Sri S.Surender Reddy, learned counsel for the appellants-petitioners. Though, service was completed on respondent Nos.1 and 2, none appears for them.

5. No discussion is required in this appeal in granting Rs.1,50,000/- to the petitioners towards compensation, as the deceased was six years old on the date of the accident, in view of the law declared by the Hon'ble Supreme Court in **Puttamma and others vs. K.L.Narayana Reddy and another**¹. Relevant observations of the Hon'ble Supreme Court contained in paragraph No.58 of its judgment 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.”

¹ 2014 ACJ 526

6. Thus, the petitioners are entitled to a total sum of Rs.1,50,000/- (Rupees one lakh and fifty thousand) as against Rs.68,000/- granted by the Tribunal towards compensation and the same is accordingly granted. So far as the rate of interest is concerned, the Tribunal granted the same at 7.5% per annum from the date of petition till realization and the same is maintained on the entire amount of compensation in view of the decision of the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**².

7. Accordingly, the instant appeal is allowed in part modifying the order passed by the Tribunal, by enhancing the compensation, as indicated above, and confirming the same in all other respects. There shall be no order as to costs.

8. As a sequel thereto, miscellaneous applications, if any pending in the instant appeal, stand closed.

A. SHANKAR NARAYANA, J

15th September, 2016

siva

² 2013ACJ1403 = 2013(4)ALT35