

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

MACMA No. 2202 of 2005

Judgment:

The parents of the deceased, namely Pendala Mahesh, aged about 14 years, being the claimants before the Chairman, Motor Accidents Claims Tribunal-cum-Principal District Judge, Warangal, laid the claim under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') for Rs.3,00,000/- for the death of their son in the road accident.

2. The Tribunal, having examined the evidence of PWs.1 and 2 and Exs.A1 to A11 and Ex.B1, awarded a sum of Rs.80,000/- as compensation with interest at 9% p.a., from the date of petition till realization, placing reliance on a decision of this Court in **Karveti Rathnamma v. New Sunbulk Carriers**^[1]. Aggrieved by the same, the appellants preferred the instant appeal seeking to grant balance amount on the ground that the Tribunal has not properly appreciated the evidence on record and that the deceased, had he been alive, would have lived at least up to the age of 65 years and earned money by doing some work and, thus, sought to grant the differential amount of Rs.2,20,000/-.

3. Heard Sri T.L. Nayan Kumar, learned counsel appearing on behalf of Sri K. Raja Reddy, learned counsel for the appellants. None appears for the respondents 2 and 3. The appeal against the first respondent was dismissed for default as per the orders of this Court dated 05.01.2012.

4. Perused the order under challenge and the evidence on record. There is absolutely no need to probe into the aspect of determination of compensation in view of the decision of the Hon'ble Apex Court in

Puttamma v. K.L. Narayana Reddy^[2], wherein the Hon'ble Apex Court, while referring to the amendment proposed to Schedule - II of the Act by the Central Government, directed 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 persons more than five years of age 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** (2 supra) 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 up to 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.”

5. Hence, the compensation of Rs.80,000/- awarded by the Tribunal is enhanced to Rs.1,50,000/-. Concerning the rate of interest, the rate of interest granted by the Tribunal at 9% p.a., is maintained on the amount of Rs.80,000/- granted by it, but on the enhanced amount of Rs.70,000/- interest at 7.5% p.a., is granted from the date of petition till realization as per the decision of the Hon’ble Apex Court in **Rajesh and others v. Rajbir Singh and others**^[3].

6. Accordingly, the MACMA is partly allowed. There shall be no order as to costs.

7. As a sequel thereto, Miscellaneous Applications, if any, pending in this appeal shall stand closed.

A. SHANKAR NARAYANA, J

Date: 20.01.2016

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^[1] 2005 (2) ALT 122

^[2] 2014 ACJ 526

^[3] 2013 ACJ 1403 = 2013(4) ALT 35