

*IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH*

MACMA.No.1337 of 2009

Between:

Vemula Venkata Nageswara Rao
and another.

... Petitioners

And

P.Nookaraju and two others.

... Respondents

JUDGMENT PRONOUNCED ON 22.6.2018

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

1. Whether Reporters of Local newspapers : Yes
may be allowed to see the Judgment?
2. Whether the copies of judgment may be
marked to Law Reporters/Journals? : Yes
3. Whether Their Lordships wish to
see the fair copy of the Judgment? : Yes

JUSTICE GUDISEVA SHYAM PRASAD

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

MACMA.No.1337 of 2009

% 22.6.2018

Between:

Vemula Venkata Nageswara Rao
and another.

..... Petitioners

And,

\$ P.Nookaraju and two others.

.....Respondents

< Gist:

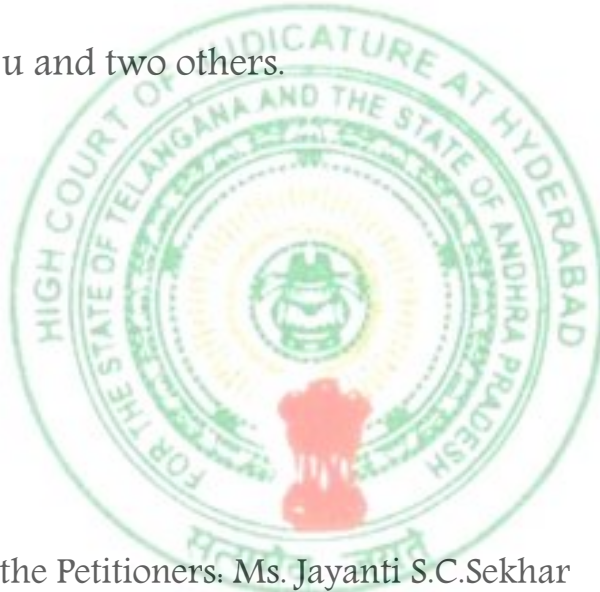
> Head Note:

! Counsel for the Petitioners: Ms. Jayanti S.C.Sekhar

^ Counsel for Respondent No.3: R.K.Suri

? Cases Referred:

(2003) 1 ACJ 12



HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

MACMA.No.1337 of 2009

JUDGMENT:

This appeal is arising out of order dated 24.3.2006, in MVOP.No.518 of 2004 on the file of the Motor Accident Claims Tribunal-cum-II Additional District Judge, Visakhapatnam (for short 'the Tribunal').

The appellants, who are the legal heirs of the deceased, filed the claim petition under Section-166 of the Motor Vehicles Act, 1988, claiming compensation of Rs.1 lakh on account of death of their son-Vemula Narayana Murthy in a motor vehicle accident that occurred on 04.3.2004 involving the tractor-trailor bearing Nos.AP-37-AA-9507 and AP-05 Y-1403, respectively.

The Tribunal on considering the evidence on record held that the said accident occurred due to the rash and negligent driving of the driver of the said tractor-trailor and awarded compensation of Rs.1 lakh to the appellants.

Heard the arguments of Ms. Jayanti S.C.Sekhar, learned counsel for the appellant, and Mr. R.K.Srui, learned Standing Counsel for respondent No.3-Insurance Company.

Learned counsel for the appellant submitted that the compensation awarded by the Tribunal is very meagre and it is not a just compensation and hence, it requires to be enhanced.

He has further submitted that the Tribunal has assessed that the appellants are entitled to Rs.1,80,000/- as compensation, but, however, it has restricted the award of compensation to Rs.1 lakh as the appellants have filed the Claim Petition seeking compensation of Rs.1 lakh only. He has further submitted that the appellants have filed amendment petition for enhancing the claim from Rs.1 lakh to Rs.3 lakhs.

Learned Standing Counsel for respondent No.3-Insurance Company submitted that the appellants have not filed any petition before the Tribunal or before this Court for enhancement of compensation from Rs.1 lakh to Rs.3 lakhs and therefore, the appellants are not entitled for compensation more than Rs.1 lakh, as awarded by the Tribunal.

On consideration of the facts and circumstances of the case and the material on record, it is obvious that the Tribunal, on appreciation of the evidence on record, has assessed Rs.1,80,000/- as just and reasonable compensation, but, however, it has awarded an amount of Rs.1 lakh as the appellants have made the claim only for Rs.1 lakh.

In *Nanjappa Vs. National Insurance Company*¹, the Hon'ble Apex Court held that the claimants are entitled to just and reasonable compensation.

¹ (2003) 1 ACJ 12

In view of the aforesaid judgment of the Supreme Court, the claimants are entitled to just and reasonable compensation.

It is the duty of the Tribunal to fix just and reasonable compensation and award the same to the parties though they made a claim petition for a lesser amount.

In the instant case, the Tribunal though assessed that the appellants are entitled to compensation of Rs.1,80,000/-, however, awarded Rs.1 lakh on the ground as the appellants have claimed only Rs.1 lakh as compensation.

In the light of the judgment of the Supreme Court in *Nanjappa* (supra), the appellants are entitled to just and reasonable compensation, which is Rs.1,80,000/- as assessed by the Tribunal in the impugned order, though it is over and above the claim of Rs.1,00,000/-. The claimants are entitled to get just compensation. The Tribunal having arrived at a conclusion that the claimants are entitled to Rs.1,80,000/- has refused to grant the just compensation.

Therefore, having regard to the facts and circumstances of the case, the appeal is partly allowed enhancing the compensation awarded by the Tribunal from Rs.1 lakh to Rs.1,80,000/- with interest @ 7.5 % per annum from the date of the said MVOP till realisation. Respondent No.3 is directed to deposit the enhanced amount within one month from the date

of receipt of a copy of this order. On such deposit, the appellants are permitted to withdraw the same.

JUSTICE GUDISEVA SHYAM PRASAD

22nd June, 2018

Note:

LR copies to be marked.

B/o

DR

