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**(2015) 06 AP CK 0018**

**In the Andhra Pradesh High Court**

**Case No :** C.M.A. No. 43 of 1998, C.M.A.(SR) No. 26299 of 2001 and L.P.A. No. 249 of 2000

Adam Indur Muttemma and Others

APPELLANT

Vs

Rathod Reddia and Others

RESPONDENT

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**Date of Decision :** 05-06-2015

**Acts Referred:**

Motor Vehicles Act, 1988 — Section 158(6), 166(1), 168

**Citation :** (2016) 1 ACC 805 : (2015) ACJ 2414 : AIR 2015 AP 117 : (2015) 4 ALD 585 : (2015) 4 ALT 775 : (2015) 4 RCR(Civil) 840

**Hon'ble Judges :** D.B. Bhosale, A.C.J;R. Subhash Reddy, J;K.C. Banu, J;Nooty Ramamohana Rao, J;Sanjay Kumar, J

**Bench :** Full Bench

**Advocate :** K.M. Mahender Reddy, for the Appellant

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## **Judgement**

Dilip B. Bhosale, Acting C.J—In view of divergence of opinions expressed by two Division Benches of this Court, the following question was referred to the Larger Bench by the then Hon'ble the Chief Justice:

"Whether the Tribunal/Court can award compensation under the Motor Vehicles Act over and above the amount claimed by the claimants, though subject to the payment of Court fee etc."

2. The first Division Bench in Pidigala Linga Reddy and Others Vs. Satla Srinivas and Others, (2003) ACJ 692 : (2001) 6 ALD 429 : (2001) 6 ALT 367 : (2001) 2 APLJ 245 , took a view that the Court can grant compensation exceeding the claim amount subject to payment of Court fee, if any, payable. Another Division Bench of this Court in Manager, The New India Assurance Co. Ltd. Vs. Chintnala @ Anaganti Narasimha and Another, (2002) 3 ALT 194 , took exactly the opposite view holding that the Tribunal/Court is not empowered to award higher compensation than the compensation claimed by the claimants. The order of reference was made on 28.6.2002.

3. Thereafter, the very same question fell for consideration of the Supreme Court in Nagappa Vs. Gurudayal Singh and Others, (2003) ACJ 12 : AIR 2003 SC 674 : (2002) 10 JT 144 : (2003) 2 SCC 274 : (2003) 1 UJ 159 and the question was answered in the affirmative holding that in the Motor Vehicles Act, 1988, there is no restriction that compensation could be awarded only upto the amount claimed by the claimant. In appropriate case, wherefrom the evidence brought on record, if the Tribunal/Court considers that the claimant is entitled to get more compensation than claimed, the Tribunal may pass such award. The only embargo is it should be just compensation, that is to say, it should be neither arbitrary, fanciful nor unjustifiable from the evidence. Such observations were made in the light of the provisions contained in Section 166(1) and (4); 158(6) and 168 of the Motor Vehicles Act, 1988. This view was thereafter reiterated by the Supreme Court in Rajesh and Others Vs. Rajbir Singh and Others, (2013) 2 ACC 841 : (2013) ACJ 1403 : (2013) 3 CTC 883 : (2013) 8 JT 288 : (2014) 173 PLR 779 : (2013) 3 RCR(Civil) 170 : (2013) 6 SCALE 563 : (2013) 9 SCC 54 : (2014) 1 SCC(L&S) 149 ; Sanjay Verma Vs. Haryana Roadways, (2014) 1 ACC 473 : (2014) ACJ 692 : AIR 2014 SC 995 : (2014) AIRSCW 856 : (2014) 2 JT 384 : (2014) 1 RCR(Civil) 914 : (2014) 1 SCALE 682 : (2014) 3 SCC 210 and Jitendra Khimshankar Trivedi and Others Vs. Kasam Daud Kumbhar and Others(2015) 2 ACC 30 : (2015) ACJ 708 : (2015) 3 AD 97 : (2015) 1 RCR(Civil) 828 : (2015) 2 SCALE 172 : (2015) 4 SCC 237 : (2015) 2 SCJ 306 .

4. Thus, in view of the law laid down by the Supreme Court in the aforementioned judgments, the question referred to the Larger Bench must be answered in the affirmative. Order accordingly. The law declared by the Division Bench in Manager, The New India Assurance Co. Ltd. Vs. Chintnala @ Anaganti Narasimha and Another, (2002) 3 ALT 194 , accordingly stands over ruled.

5. The reference is answered accordingly.

6. The registry is directed to place all the appeals before the Courts which are assigned to hear these appeals and decide the same in the light of this order.