

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

MACMA No.2174 OF 2012

JUDGMENT:

The 2nd respondent-Insurer of the claim petition O.P.No.938 of 2003 on the file of the Chairman, Motor Accidents Claims Tribunal–cum–XIX Addl. Chief Judge, Hyderabad(for short, ‘the Tribunal’) the claim maintained under Section 166 of the Motor Vehicle Act,1988 (*for short, ‘the Act’*), by 4 claimants viz; wife, minor son, minor daughter (who attained majority and discharged by the Court by order, dated 26.06.2014 in MACMAMP Nos.2537 and 2538 of 2014) and mother of the deceased by name K.K.Ravindran, aged about 41 years as per Ex.A.5 post mortem report for his death in the accident on 08.03.2003 caused by the 1st respondent-owner of the car due to his rash and negligent driving by dashing the scooter bearing No.AP 24 A 3837 of the deceased, claiming compensation of Rs.10,00,000/-(Rupees ten lakhs only), preferred this appeal aggrieved by the award dated 26.10.2005 passed by the tribunal granting compensation of Rs.6,75,000/- with interest at 7% p.a. by fixing liability against both the respondents, with the contentions in the grounds of appeal that the quantum is excessive and exorbitant, that the tribunal erred in taking high income of the deceased in calculating compensation that the multiplier taken by the tribunal is wrong and no doctor was examined by the claimants to prove the medical expenses, hence, to reduce the compensation. The learned counsel for the Insurer reiterated the grounds of appeal during course of arguments.

2. The 5th respondent-owner of the crime vehicle who remained exparte before the tribunal, served with notice did not turn up taken as heard.

3. Whereas, it is the contention of the learned counsel for the respondents/claimants that there is nothing to interfere with the award of the tribunal for this Court while sitting in appeal, hence to dismiss the appeal.

4. It is not in dispute that the deceased died in the accident due to rash and negligent driving of the 5th respondent of the appeal-owner of the Ambassador car bearing No.ADR 4961 but the dispute is with regard to the earnings of the deceased and multiplier taken by the tribunal and thereby the compensation awarded is high to be reduced. The deceased was working as borewell mechanic and claimed Rs.7,500/- p.m. as his earnings. As per expression of Apex Court in **Latha Wadhwa vs. State of Bihar**^[1] even for no proof of income and earnings, estimated at Rs.3,000/- p.m. for any non-earning member and even for housewife and if taken Rs.4,200/- p.m. including prospective earnings for claimed as mechanic, and 1/3rd deducted towards personal expenses, it comes to Rs.2800/- and as the deceased aged 41 years and the claim is u/sec.166 of the M.V.Act, as per **Sarla Verma v. Delhi Transport Corporation**^[2], the multiplier to be adopted is 14.5, then it comes to Rs.2,800/-p.m. x 12 x 14.5 (Multiplier) = Rs.4,87,000/- besides Rs.1,00,000/- towards consortium, Rs.25,000/- towards funeral expenses and Rs.10,000/- loss of estate and Rs.20,000/- towards care and guidance of the two children, it comes to Rs.6,42,000/-. What the tribunal awarded of Rs.6,75,000/- is to be reduced to Rs.6,42,000/- by enhancing the rate of interest from 7% to 7.5%p.a. as per **Rajesh v. Rajbir Singh**^[3]

5. In the result, the appeal is allowed by reducing the compensation awarded by the tribunal of Rs. 6,75,000/- to Rs.6,42,000/- with interest at 7.5% p.a. enhancing from 7% p.m. the 2nd and 3rd respondents of appeal-claimants 2 and 3 who attained majority are given liberty to approach the tribunal for withdrawal of any amount they entitled and the tribunal so to consider. There is no order as to costs. Consequently, miscellaneous petitions, if any pending in this appeal, shall stand closed.

Date: 08.12.2015

Vvr

[\[1\]](#) (2001) 8 SCC 197=AIR 2001 (SC) 3218

[\[2\]](#) 2009 ACJ 1298

[\[3\]](#) 2013(4)ALT 35(SC)