

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A. No.1779 of 2009

JUDGMENT:

The claimants are mother, wife and two minor children of the deceased by name, S.Konda Reddy, aged about 35 years as per Ex.A3-Post Mortem report, who maintained the claim under Section 163-A of the Motor Vehicles Act for compensation of Rs.2,50,000/- against owner and insurer of lorry bearing No.

AP 27W 4344, the tribunal having heard, held that the accident was result of negligent driving of the driver of lorry and awarded Rs.1,67,000/- with interest at 7.5%p.a. with joint liability against owner and insurer of lorry by holding that non-impleadment of auto in which the deceased was travelling is no way fatal to the maintainability of the claim.

2. Aggrieved by the award of the tribunal of compensation awarded supra in O.P.No.567 of 2007 dated 04.11.2008 as utterly low, the claimants maintained the present appeal against owner and insurer.

3. The 1st respondent remained exparte before the tribunal and in the appeal endorsed as not necessary party there from.

4. Heard and perused the material on record.

5. Even the claim is under Section 163-A of the Motor Vehicles Act, in the absence of proof of earnings, the minimum to be taken as per Schedule II of the Motor vehicles Act of Rs.15,000/- p.a. to be read as Rs.30,000/- p.a. vide **Kishan Gopal Vs Lala**^[1]. Thus, the earnings of the deceased can be taken at Rs.30,000/- p.a. and if 1/3rd is deducted towards personal expenses of the deceased, it comes to Rs.20,000/- and loss of dependency comes at Rs.20,000/-x15 (the multiplier applicable from the age of the deceased as per Schedule II of the Act is '15) =Rs.3,00,000/-. Apart from it, the petitioners are entitled to Rs.2,500/- towards loss of consortium and Rs.2,000/- towards funeral expenses (as per Schedule II of the Act). Thus, in total it comes to Rs.3,04,500/-. Though the claimants claimed Rs.2,50,000/- as compensation, as per the expression of the Apex Court in **Rajesh v. Ranbir Singh**^[2], they are entitled to just compensation of Rs.3,04,500/- subject to payment of deficit Court fee under Rule 475 of Andhra Pradesh Motor Vehicle Rules.

6. Accordingly, the appeal is allowed by enhancing compensation from Rs.1,67,000/- to Rs.3,04,500/- with

interest at 7.5% from the date of claim petition till realization.

7. The claimants/appellants are not entitled to execute decree without payment of deficit court fee. There is no order as to costs.

8. Miscellaneous petitions, if any pending, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:30-12-2015

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[\[1\]](#) 2014(1)SCC-244)

[\[2\]](#) 2013 ACJ 1403