HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A.No.1284 of 2009

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), is filed against the order, dated 20.03.2007, in M.V.O.P.No.91 of 2004 passed by the Chairman, Motor Accidents Claims Tribunal-cum-I Additional Chief Judge, City Civil Court, Secunderabad, whereby, the Original Petition was allowed in part awarding compensation of Rs.1,00,000/-.

2. Heard learned counsel for the claimants, who are daughter and two sons, all majors, of the deceased Rekha, who died in the accident on 13.02.2004 due to alleged rash and negligent driving of driver of RTC bus bearing No.AP-10-8268 of Nizamabad District. The deceased claimed aged about 45 years and postmortem report also speaks the same. The multiplier 13.5 can be taken as per Section 166 of the Act and as per **Sarla Verma v. Delhi Transport Corporation** the earnings of the deceased claimed @ Rs.3,000/- per month by the date of accident. Even non earning member claimed minimum Rs.2,000/- per month as per **Lata Wadhwa v. State of Bihar.** What is claimed Rs.3,000/- per month now excessive.

3. Coming to the deduction towards personal expenses as per **Sarla Verma's case (supra)** paras 31 to 33, in the case of parents, it is half and in the case of other dependents like wife and children, if they are more than two, it is 1/3rd. Here, there are three claimants. Even in the claim petition, their ages are shown, but for one son is 16 years and the other son and the daughter are majors. Though it is claimed by the respondent RTC, Standing Counsel in this appeal that the 1st claimant, who is a married women, is mentioned as housewife in the array, it is referred as daughter of deceased and wife of any person, there is no material undisputedly. Thus, even a major cannot be ignored from dependents consideration for not married. However, the 2nd son, a major not a dependent, even then when there are two dependents and the other is even though not a dependent being Class-I heir, the contribution of the

deceased can be taken into consideration if 1/3rd even deducted for three dependents following the expression, it comes to Rs.3,24,000/- (Rs.2,000 x 12 x 13.5) besides the funeral expenses and loss of estate they are entitled. Thus, what the claim made of Rs.3,00,000/- and what the appeal claim of Rs.3,00,000/- is no way excessive.

4. Accordingly, the appeal is allowed enhancing the compensation from Rs.1,00,000/- to Rs.3,00,000/- with interest @ 7.5% per annum with a direction to the respondent to deposit the amount, save the amount already deposited, for the balance within one month from the date of receipt of this order. The apportionment is as per the award of the Tribunal. The claimants are at liberty to approach the Tribunal for any withdrawal. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this appeal shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:09.11.2015

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