HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A.No.4040 of 2009

AND

CROSS OBJECTIONS IN S.R.No.47799 of 2009

COMMON JUDGMENT :

The 2nd respondent/insurer among two respondents including owner of lorry bearing No.AP11W 9343 is the appellant, impugning the award of the tribunal dated 29.07.2008 in O.P.No.312 of 2006 on the file of Motor Accidents Claims Tribunal-cum-I Additional Chief Judge, City Civil Court, Secunderabad, in the claim filed under Sections 166 and 163-A of the Motor Vehicles Act by the three claimants no other than husband and two major sons of the deceased-Maqbool Sultana, aged about 53 years as per Ex.A5-Post Mortem Report, for the claim made of Rs.30,00,000/- since awarded by the tribunal of Rs.9,52,407/-, impugning the said quantum of compensation as excessive and also from the contention that the husband is no longer a dependent but for any contribution like to the major children that to be considered, thereby the quantum is liable to be reduced.

2. Whereas it the contention of the learned counsel for the claimants/respondents 1 to 3 to the appeal that the 1st respondent/owner of the claim petition as 4th respondent to the appeal even served failed to attend, including in support of the cross objections filed by them that the tribunal ought to have been awarded what is claimed of Rs.30,00,000/-, thereby to enhance.

3. Heard and perused the material on record.

4. There is no dispute as to the manner of accident and entitlement of compensation but for quantum from the contention of the

insurer as excessive and from the claimants as utterly low for the Court to decide what is just compensation. As per Exs.A8 and A9-salary certificates of April and May, 2006, in fact the accident was on 27.07.2006 show the gross salary of the deceased was Rs.26,763.11 ps., the net salary shown was Rs.18,145/-, which is gross salary less the income tax and other permissible deductions, that is the criteria here from the salary even taken any permissible deductions like professional tax etc., taken the considerable amount of Rs.25,00,000/- though it is contended by the learned counsel for the claimants of proportionate increase of 30% as per **Rajesh Vs. Ranbir Singh.** Here, what is the service left nearly seven years, thereby this Court is not chosen to consider any prospective increase, if 15% atleast towards income tax there from taken into consideration and among three claimants, major sons no way dependants as per the settled law but for the husband though otherwise employee and sufficiently cannot be ignored of his entitlement, if half deducted towards personal expenses there from, multiplier '11' applies from the age as per **Sarla Verma v Delhi Transport Corporation** followed in **Rajesh** (supra) and added to it Rs.1,00,000/- towards consortium, Rs.10,000/- towards loss of estate and Rs.25,000/- towards funeral expenses, it comes to Rs.15,37,500/- is the just compensation the claimants are entitled, of which to apportion half of the amount to the first claimant and the remaining half to the claimants 2 and 3 equally and thereby to enhance from Rs.9,52,407/- to Rs.15,37,500/- with the same rate of interest at 7.5% p.a. and the interest payable on the enhanced amount is only from 01.01.2010.

5. Accordingly and in the result, while dismissing the appeal, the

cross objections are allowed in part.

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

Dr. B. SIVA SANKARA RAO, J

Date:18-12-2015

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