

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

C.M.A.No.3957 of 2004

JUDGMENT :

The 2nd respondent-A.P.S.R.T.C among the two respondents including the driver of the bus bearing No.AP 10 Z 4327 of M.V.O.P. No.123 of 2000 maintained by seven claimants who are no other than wife, children and mother of the deceased by name Bhadraiah, aged about 50 years as per Ex.A-5 post mortem report, maintained the claim under Section 166 of the Motor Vehicles Act for Rs.3,50,000/- since awarded by the Tribunal after full-dressed trial, after recording the evidence of P.Ws 1 and 2 with reference to Exs.A-1 to A-10 granting Rs.1,39,200/- with interest at 9% per annum by award dated 25.06.2003, having aggrieved thereby, preferred the appeal with contentions in the grounds of appeal that the tribunal gravely erred in taking earnings of the deceased at Rs.1,000/- per month and applied wrong multiplier, that there exists contributory negligence on the part of the deceased in proceeding opposite to the bus in dashing the bus, hence to reduce the compensation by fixing the contributory negligence. Learned standing counsel for the A.P.S.R.T.C Sri B.Mayur Reddy submitted arguments in support of the said grounds.

2) Whereas, it is the learned counsel for the claimants that the award of the Tribunal holds good, there is nothing to interfere but for enhancement for want of cross-objections.

3) Heard both sides. Perused the material on record. The parties hereinafter are referred to as arrayed before the Tribunal for the sake of convenience in the appeal.

4) Now the points that arise for consideration in the appeal are:

1. *Whether the compensation awarded by the Tribunal is on high side*

and whether there is any contributory negligence on the part of the deceased, if so to what extent the amount of compensation has to be awarded and on what grounds?

2. To what result?

POINT-1:

5. Admittedly the deceased was proceeding on the cycle towards Manugonda near the agricultural well of Kunta Narsaiah. The accident was occurred due to the rash and negligent driving of the bus bearing No.AP 10 Z 4327 and the same was proved before the Tribunal and there is nothing to interfere for this Court while sitting in appeal with regard to the said contention.

6) Coming to the quantum of compensation, the deceased was aged about 50 years and even if he is working as a coolie, as per the expression of the Apex Court in **Latha Wadhwa vs. State of Bihar**^[1] minimum Rs.3,000/- per month to be taken and the multiplier as per **Sarla Varma v. Delhi Transport Corporation**^[2] 13 has to be taken and apart from the same, as per **Rajesh v. Rajbir Singh**^[3] minimum Rs.1,00,000/- towards loss of consortium, Rs.25,000/- towards funereal expenses, Rs.10,000/- towards loss of estate, Rs.10,000/- each to the children towards care and guidance has to be awarded and the claimants are entitled. Therefore, what the Tribunal awarded at Rs.1,39,200/- is utterly low and nothing to reduce except to reduce interest from 9% to 7.5% p.a. Accordingly, Point-1 for consideration is answered.

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POINT No.2:

7) In the result, the appeal is partly allowed by confirming the compensation as awarded by the Tribunal but for reducing the rate of interest from 9% p.a. to 7.5% from the date of appeal till the date of

realization by retaining 9% p.a. from date of petition till date of appeal.
Rest of the terms of the award of the Tribunal holds good. There shall be no order as to costs.

8) Miscellaneous petitions, if any pending in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 06-02-2015

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[\[1\]](#) 2001 (8) SCC 197

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

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