

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A. No.2743 of 2009

JUDGMENT:

The claimants are wife and major son of the deceased by name, L.Venkateswarlu, aged 70 years, died in motor accident dated 03.11.2005, who maintained the claim under Section 163-A of the Motor Vehicles Act(for short 'the Act') for compensation of Rs.2,00,000/- against owner and insurer of auto bearing No.AP 07W 5469, while the deceased and others were traveling from the auto turned turtle, from first claimant died pending claim petition and second claimant recorded as sole legal representative being major son, did not dependant being Class-I heir otherwise entitled to the entire compensation, from what the tribunal awarded in O.P.No.325 of 2006 dated 08.09.2008 of Rs.12,000/- with interest at 7.5% p.a. impugned as utterly low in the appeal.

2. The 1st respondent remained exparte before the tribunal and even not served, no way fatal to the maintainability of appeal being not necessary party as endorsed.

3. Whereas it is the contention of the learned counsel for the insurer/2nd respondent that the second claimant is not a dependant and first claimant, wife of the deceased also died and the tribunal is right in awarding compensation of Rs.12,000/- and for this Court while sitting in appeal, there is nothing to interfere, hence to dismiss the appeal.

4. Heard and perused the material on record.

5. The claim filed under Section 163-A and Schedule-II

governs the claim as per the structured formula, for a person aged 70 years, the multiplier applicable is '5'. 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/-x5 (the multiplier applicable from the age of the deceased as per Schedule II of the Act is '5') =Rs.1,00,000/-. Apart from it, the claimant is entitled to Rs.2,000/- towards funeral expenses (as per Schedule II of the Act). Thus, in total it comes to Rs.1,02,000/-.

6. Accordingly, the appeal is partly allowed by enhancing compensation from Rs.12,000/- to Rs.1,02,000/- with interest at 7.5% from the date of claim petition till realization. There is no order as to costs.

7. 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)