

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

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C.M.A.No.3763 OF 2004

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JUDGMENT:

The 2nd respondent-Municipality now re-designated as Corporation among the two respondents including the driver of the vehicle tractor bearing No.ATU 405 of the second respondent, impugning the award of the Tribunal in O.P.No.697 of 1998 dated 01.08.2003 maintained by the parents of the deceased girl Sk.Baji, aged about 6 years for the accidental death under the wheels of the vehicle on 28.12.1992, in the claim under Section 166 of the Motor Vehicles Act for Rs.1,00,000/- since awarded by the Tribunal of Rs.72,000/- with interest at 12% per annum, maintained the appeal with the contentions in the grounds of appeal that Tribunal gravely erred in not considering the factum of the vehicle number not mentioned in Ex.A.1 FIR and even police filed charge sheet, the criminal case ended in acquittal and the driver of the vehicle-R.1 and RW1 deposed of no negligence on the part of the driver, for negligence on the part of deceased who was travelling on her bicycle and on noticing the vehicle coming from opposite direction, hence to exonerate the second respondent insurer for no fault of the municipal tractor driver but for default of the deceased and her brother. It is also the contention that the rate of interest 12% awarded is arbitrary and excessive to reduce.

2. Whereas it is the contention of the learned counsel for the claimants Sri A.Panduranga Rao, who are no other than parents of the deceased girl that but for no cross objections the compensation awarded is utterly low and there are also no grounds to reduce the rate of interest. Hence sought for to dismiss the appeal.

3. Perused the material on record. The parties hereinafter are referred to as

they are arrayed before the Tribunal for the sake of convenience in the appeal.

4. Now, the points that arise for consideration is

1) *Whether the quantum of compensation awarded by the Tribunal is unsustainable to interfere and rate of interest is required to be reduced, by this Court while sitting in appeal and if so with what observations?*

2) To what relief?

5. **POINT:**

The facts that the vehicle was involved in the accident and the deceased was succumbed to injuries sustained having been crushed under the wheels of the vehicle are not in dispute. Practically then it makes no difference, either vehicle number is given or not as rightly concluded by the Tribunal and for this Court, while sitting in appeal, in this regard, there is nothing to interfere including on the finding of rash and negligent driving of the vehicle driver. Now, even coming to the quantum of compensation out of the amount of Rs.72,000/- awarded there is nothing to interfere as the minimum under no fault liability even for a child required to award Rs.50,000/- besides loss of estate, love and affection to the parents, who lost their kid; but for no cross-objections to enhance. Now, coming to the rate of interest as laid down by the Apex Court in **Rajesh v. Rajbir Singh** 7.5% interest is reasonable to reduce from 12% only from the date of appeal till the date of realization. Accordingly the point No.1 is answered.

6. **POINT No.2:**

In the result, the appeal is partly allowed while confirming the compensation awarded by the Tribunal @ Rs.72,000/- with joint liability, reduced the rate of interest from 12% to 7.5% per annum only from date of appeal till realization, while confirming from date of claim petition to date of appeal at 12% per annum. There shall be no order as to costs.

Miscellaneous petitions pending, if any shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 13th February, 2015

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