

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

C.M.A.No.1680 OF 2004

JUDGMENT:

The claimants 8 in number no other than the wife, unmarried major daughters, minor sons and parents of the deceased who maintained the claim under Section 166 of the Motor Vehicle Act, 1988 (*for short, 'the Act'*), in O.P.No. 77 of 1998 on the file of the learned Chairman of the Motor Accidents Claims Tribunal-cum-District Judge, Sangareddy (*for short, 'Tribunal'*), for the claim of Rs.6,00,000/- for the death of the deceased Md.Pasha, in the accident dated 17.08.1997, caused by rash and negligent driving of the driver of the crime lorry bearing No.AP-9T-5257 belongs to the 1st respondent insured with the 2nd respondent, since granted Rs.3,37,000/- with interest at 9% p.a. by fixing joint liability against both the respondents by award dated 19.10.2001, having been aggrieved by the same, preferred this appeal with the contentions in the grounds of appeal as well as submissions during the course of hearing that the compensation awarded by the tribunal is utterly low, that the tribunal erred in not considering that the deceased was Asst. Sub Inspector of Police and all the claimants are dependants on him and the tribunal ought to have therefrom awarded compensation as prayed for, hence to set aside the award and grant compensation as prayed for.

2. Whereas, it is the contention of the learned counsel for the contesting 2nd respondent-insurer that the award of the tribunal holds good and for this Court while sitting in appeal there is nothing to interfere with the award of the tribunal, hence to dismiss the appeal.

3. 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 unjust and utterly low and requires interference by this Court while sitting in appeal against the award, if so, with what compensation, what rate of interest and with what observations?*

2. *To what result?*

POINT-1:

5. There is no dispute as to the manner of the accident and therefrom death of the deceased Md. Pasha but for quantum of compensation. On perusal of the record, it clearly shows that the deceased met with accident by multiple injuries having been knocked while proceeding on his scooter bearing No.AP U 5581 by the crime lorry of the 1st respondent insured with the 2nd respondent due to the negligent driving of its driver which is categorically deposed by the eye witness P.W.3 Beat Constable who set the law into motion under Ex.A.1 First Information Report and police filed Ex.A.2 chargesheet showing multiple injuries sustained by him resulted his instantaneous death is proved from Ex.A.4 Post mortem report. Coming to the compensation, as per Ex.A.4 Postmortem certificate, the age of the deceased is about 40 years. As per expression of the Apex Court in **Sarla Verma v. Delhi Transport Corporation** where the dependants are more than 6, 1/5th is deducted towards personal expenses and as per **Rajesh v. Rajbir Singh** following the Sarla Verma(supra), the prospective earnings have to be taken into consideration. The earnings of the deceased as per Ex.A.5 salary certificate, the net salary is of Rs.4,000/- out of gross salary of Rs.4,513/- (rounded to Rs.4,500/-) if 30% prospective increase taken to the net salary from the above expressions which comes to Rs.5,200/- after 1/5th deducted it comes to Rs.4160/- x 12 x 14(multiplier) as per Sarla Verma(supra), it comes to Rs.6,98,880/-, thus what the claimants sought for Rs.6,00,000/- is no way excessive to award for nothing to show that the deceased contributed to the accident, however, by reducing rate of interest from 9% to 7.5% p.a. as per the settled expressions of Apex Court in **TN Transport Corporation v. Raja Priya**, and **Rajesh** (supra), in which it is held that there is steep fall in the bank interest rate for the past several years which is to be kept in mind while awarding interest and awarded therefrom at 7.5% p.a. as reasonable. The appellate Court also got the discretionary power under Order LXI Rule 33 C.P.C to award reasonable rate of interest from the drastic fall in bank rate of interest in bank rate as laid down by the Apex Court in **DDA Vs. Joginder S. Monga**. Accordingly, Point No.1 is answered.

POINT No-2:

6. In the result, the appeal is partly allowed by enhancing the compensation from Rs.3,37,000/- to Rs.6,00,000/-(as prayed for) by reducing the rate of interest

from 9% to 7.5% p.a. from date of the claim petition till realization/deposit with notice. The respondents are directed to deposit the amount, within one month from the date of receipt of judgment. Failing which the claimants can execute and recover. On such deposit or execution and recovery, the claimants are permitted to withdraw the same. There is no order as to costs in the appeal. Consequently, miscellaneous petitions, if any, pending in this appeal shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 10.04.2015

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