

THE HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

MACMA No.2756 OF 2015

JUDGMENT:

The appellants and the respondents to the appeal are the claimants and the respondents 1 to 3 in M.V. O.P. No.362 of 2008 on the file of Motor Accidents Claims Tribunal-cum-II Additional District Judge, Suryapet. The claim petition filed against the respondents i.e. owner, driver and insurer of the lorry bearing No.AP-16-TV-6818 under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act'), claiming compensation of Rs.4,00,000/- for the death of their son by name T. Janaiah. As per Ex.A.3 – P.M.E. report, the deceased Janaiah was aged about 23 years.

02. The averments in the claim petition are that on 15.03.2008 at about 10.15 a.m. while the deceased Janaiah get down from his bike and stand at the outskirts of Raingudem Village road side, the lorry of the first respondent driven by the second respondent in a rash and negligent manner dashed the deceased. As a result, he sustained grievous injuries and succumbed to death. Police registered a case in Crime No.27 of 2008 under section 304-A I.P.C. covered under Ex.A.1 – FIR and filed charge sheet covered under Ex.A.5 – charge sheet.

03. The tribunal, after considering Ex.A.2 - inquest report, which shows the age of the parents of the deceased as 49 and 52, taken the age of the mother of the deceased, who aged about 49, and applied multiplier '13' as per the II schedule of MV Act for the age group of 46 to 50, however, estimated the earnings at Rs.1500/- per month. After deduction of the half of the earnings, the tribunal granted Rs.97,500/- towards loss of earnings, Rs.2,000/- towards funeral expenses, total awarded an amount

of Rs.99,500/- to the petitioners. It is impugning the same, the claimants preferred the present appeal.

04. Heard both the counsel and perused the material on record.

05. There is no dispute on the factum of the finding of the tribunal regarding the accident took place due to rash and negligent driving of the second respondent of the lorry of the first respondent, insured with the third respondent, but for on the quantum. The accident was dated 15.03.2008. The deceased was aged 23 years as per Post Mortem Examination report, even claimed that he was aged 19 years. In the absence of proof of earnings, even claimed as studying graduation, or earning otherwise, as per the expression of the Apex Court in **Lata Wadhwa v. State of Bihar**^[1], minimum wages can be taken, even that is taken 7 years after the accident, it comes to Rs.3,700/-. If half of the earnings deducted towards personal expenses, it comes to Rs.1,850/-. The earnings multiplied with 13, the petitioner entitled for an amount of Rs.2,88,600/- (Rs.1850x 12 x 13 = 2,88,600/-) towards loss of earnings. The petitioners further entitled for an amount of Rs.25,000/- towards funeral expenses, Rs.10,000/- towards loss of estate, Rs.10,000/- towards loss of love and affection to the parents vide expression of the Apex Court reported in **Rajesh v. Rajbir Singh**^[2]. In all, the petitioners entitled for an amount of Rs.3,33,600/- rounded to Rs.3,34,000/-.

06. Accordingly, and in the result, the appeal is partly allowed enhancing the compensation from Rs.99,000/- to Rs.3,34,000/- (Rupees three lakhs thirty four thousand only) and also enhancing the rate of interest from 6% to 7.5% per annum from the date of claim petition on the original amount Rs.99,000/- and from today on the enhanced amount, till realization. No costs.

07. Miscellaneous petitions if any pending in this appeal shall stand

closed.

Dr.B.SIVA SANKARA RAO, J

Dt.14.12.2015

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[\[1\]](#) AIR 2001 SC 3218

[\[2\]](#) 2013 ACJ 1403