

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

C.M.A.No.1234 OF 2004

JUDGMENT:

The 2nd respondent-Insurer among the two respondents including owner of the tractor and trailer bearing No.AP 28 U 6802 & 6803(KA 37 1830 and 1831), of O.P.No.2731 of 2001 on the file of the learned Chairman of the Motor Accidents Claims Tribunal–cum-IV Additional Chief Judge, City Civil Court, Hyderabad (*for short, 'Tribunal'*), filed under Section 166 of the Motor Vehicle Act,1988 (*for short, 'the Act'*), by the 5 claimants viz, wife, two major sons, one major and one minor daughters of the deceased by name Syed Ahmed, for the claim of Rs.12,00,000/- (Rupees twelve lakhs only), since granted Rs.6,90,360/- with interest at 9%p.a. fixing joint liability including the Insurer; preferred this appeal impugning the award of the tribunal dated 17.10.2003, 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 highly excessive and exorbitant and the multiplier applied is incorrect including with reference to the Ex.A.7 salary certificate and the rate of interest is also excessive and exorbitant to reduce, hence to set aside the award otherwise to reduce compensation as well as rate of interest to 6% p.a. by allowing the appeal.

2. Whereas, it is the contention of the learned counsel for the claimants that the award of the tribunal holds good and requires no interference by this Court while sitting in appeal to reduce the quantum of compensation and rate of interest but for no cross-objections to enhance, 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 as well as rate of interest awarded by the tribunal is excessive and exorbitant and the same is unsustainable and requires interference by this Court while sitting in appeal, if so, what is the just compensation and what observations?*

2. To what result?

Point No.1:

5. On perusal of the evidence on record, it clearly establishes that the accident was the result of the rash and negligent driving of the driver of the crime vehicle which is not in dispute but for the quantum of compensation and rate of interest.

6. Now coming to the quantum of compensation, as per Ex.A.4 postmortem certificate, the age of the deceased at the time of accident was about 52 years. The claim is under Section 166 of the Act. As per the expression of Apex Court in **Sarla Verma v. Delhi Transport Corporation** for a person aged between 51 to 55 years, the multiplier 11 is applicable which is rightly taken by the tribunal and coming to the earnings of the deceased Ex.A.7 salary certificate shows that he was drawing net salary of Rs.7470/-p.m. out of gross of Rs.11280/-, even said net salary taken for arguments sake and as per **Rajesh v. Rajbir Singh** for the salaried employee the deceased prospective earnings from his age 10% even can be taken and among the 5 claimants but for second one major even the claimants 3 and 4 are though majors being unmarried daughters, if 1/4th deducted towards personal expenses, apart from Rs.1,00,000/- towards loss of consortium to the 1st claimant being wife, Rs.25,000/- towards funeral expenses, Rs.10,000/- towards loss of estate and even Rs.10,000/- towards care and guidance of the 5th claimant, what the tribunal awarded is no way excessive to reduce, but for to reduce the rate of interest from 9% p.a. to 7.5% p.a. as per settled expressions in **TN Transport Corporation v. Raja Priya**, and **Rajesh** (supra), as held that the 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:

7. In the result, the appeal is partly allowed while confirming the compensation but reducing the rate of interest from 9% to 7.5% p.a. from the date of petition (MVOP) till realization/deposit with notice. Rest of the award holds good. 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: 02.04.2015

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