

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A.No.3756 of 2004

JUDGMENT :

The claimants, no other than the parents of the deceased by name Challa Pitchi Raju, aged about 18 years, as per Ex.A-2 post mortem report, maintained the claim petition under Section 166 of the Motor Vehicle Act, 1988 (*for short, 'the Act'*) for Rs.1,50,000/- for the accidental death of him dated 03.04.1999 while the deceased was boarded in a lorry bearing No.AP 16 W 6589 with iron and wood load and proceeding to Chennai, due to rash and negligent driving of the driver of the lorry insured with 2nd respondent covered by Ex.B-1 policy, the Tribunal having held that the accident was the result of the rash and negligent driving of the driver of the lorry, awarded compensation of Rs.1,10,000/- with joint liability against both the respondents with interest at 9% p.a.

2) It is impugning the same mainly on the quantum of compensation as utterly low, the claimants preferred the appeal with contentions in the grounds of appeal to allow the appeal as prayed for. It is the contention of the learned counsel for the insurer that there is nothing for this Court to interfere with the quantum of compensation made final and hence to dismiss the appeal.

3) Heard Sri B.Parameswara Rao the learned counsel for the appellants and Sri M.Jeevan Reddy learned standing counsel for the insurer. 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 quantum of compensation is utterly low to*

enhance, if so to what amount, with what liability on the insurer to indemnify?

2. To what result?

POINT No.1:

5) The proved facts before the Tribunal are that the accident occurred due to rash and negligent driving of the driver of the crime lorry and for this Court while sitting in the appeal there is nothing interfere to that extent.

6) Coming to the quantum of the compensation, the deceased was claimed as coolie and getting salary of Rs.1,500/- per month. Even taken the same as true it comes to Rs.18,000/- per annum and after deducting ½ towards personal expenses, it comes to Rs.9,000/- per annum since the deceased is an unmarried and the claimants are his parents and from the age of the parents between 40 to 45 taken the multiplier applicable is 15 as per **Sarla Varma v. Delhi Transport Corporation**^[1], it comes to Rs.1,35,000/-. Apart from this, the claimants are entitled to Rs.25,000/- towards loss of estate and Rs.10,000/- towards funereal expenses, it comes to Rs.1,70,000/- is the compensation the claimants are entitled to enhance. Accordingly, point No.1 is answered.

POINT No.2:

7) In the result, the appeal is partly allowed by enhancing the compensation from Rs.1,10,000/- to Rs.1,70,000/- towards the compensation to the claimants by reducing the interest from 9% to 7.5% p.a. from the date of claim petition till the date of realization. The claimants are directed to deposit the deficit Court Fees without which the claimants cannot execute the award. No order as to costs.

8) Miscellaneous petitions, if any pending in this appeal, shall

stand closed.

Date: 23-01-2015

ksh

Dr. B. SIVA SANKARA RAO, J

[\[1\]](#) 2009 ACJ 1298