

THE HONOURABLE DR. JUSTICE B.SIVA SANKARA RAO

MACMA No.335 OF 2010

JUDGMENT

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The claimant Nos. 1 to 3 no other than the husband, two minor children of the deceased by name U.Nagarathnamma aged about 35 years filed O.P.No.1018 of 2008 on the file of the learned Chairman of the Motor Accidents Claims Tribunal—cum-Additional District & Sessions Judge, Anantapur (*for short, 'Tribunal'*), filed under Section 166 of the Motor Vehicle Act,1988 (*for short, 'the Act'*), against the owner and Insurer of the crime lorry bearing No.AP-04-T-8177 belongs to the 1st respondent insured with 2nd respondent for the claim of Rs.10,00,000/- and the tribunal since granted only Rs.1,84,000/- with interest at 7.5% p.a. by award dated 17.09.2009, impugning the said quantum as utterly low, preferred the present appeal with the contentions that the compensation may be granted as prayed for in view of the factual matrix.

2. The 1st respondent-owner of the crime lorry remained *exparte* before the tribunal failed to attend, taken as heard and also heard the learned counsel for the claimants and also the 2nd respondent-Insurer and perused the material on record.

3. The learned counsel in support of his claim relied on the expression of this Court in **Bontu Venkata Rao Vs.Venkataramana**- in which what held is when wife died in the accident, the husband and children of the deceased cannot claim compensation as dependents on the deceased but for loss of consortium. The Single Judge expression *supra* is not considered in view of the expression of the Apex Court in **Latha Wadhwa vs. State of Bihar** where it is stated in death cases of female even domestic contribution of house wife may be taken at Rs.3,000/- p.m. Here, in the case on hand however, there are two minor children who are dependants on the mother also, even for the domestic contribution as per the expression of Latha Wadhwa *supra*, though husband is not a sole dependent but for contribution by wife. No doubt there is evidence showing the deceased was having in her name 25 acres of land however, it is not in dispute that she is a housewife,

there is nothing loss of supervision even by virtue of death as estate of property succeeds to the legal heirs however, the Court cannot ignore as laid down in Latha Wadhwa supra. Now the domestic contribution can be taken as Rs.3,000/- p.m., the accident was about 7 years after the expression even taken therefrom with prospective increase of Rs.3500/- p.m. if $\frac{1}{3}^{\text{rd}}$ deducted Rs.3500/-x $\frac{2}{3}$ x12x15(multiplier) for the deceased aged about 35 years, it comes to Rs.4,19,999/- rounded to Rs.4,20,000/- and Rs.1,55,000/- (Rs.1,00,000/- towards loss of consortium, to the 1st claimant, Rs.10,000/- towards loss of estate Rs.10,000/- towards care and guidance of the minor children, Rs.10,000/- towards loss of earnings and Rs.25,000/- towards funeral expenses as per the **Rajesh v. Rajbir Singh**, is added, it all comes to Rs.575,000/- which is just compensation to award with interest at 7.5% p.a.

4. Having regard to the above, the appeal is partly allowed by enhancing the compensation awarded by the tribunal of Rs.1,84,000/- (Rupees one lakh eighty four thousand only) to Rs.5,75,000/-(Five lakhs seventy five thousand rupees only) with interest at 7.5% p.a. from the date of claim petition (MVOP) till realization/deposit with notice. Both the respondents are directed to deposit said amount with interest within one month from today, failing which the claimants can execute and recover. On such deposit or execution and recovery, the claimants are permitted to withdraw the same. Rest of the terms 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. JUSTICE B. SIVA SANKARA RAO

Dt.23.11.2015.

VVR