HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A.No.3619 OF 2011

JUDGMENT:

The appellants, no other than parents of the deceased by name Roop Kumar, claimants in M.V.O.P.No.318 of 2008 on the file of the learned Chairman of the Motor Accidents Claims Tribunal–cum–III Addl.Sessions Judge, Tirupati(*for short, 'Tribunal')* maintained claim under Section 166 of the Motor Vehicle Act,1988 *(for short, 'the Act'),* for the death of their son in the accident dated 16.10.2007 while proceeding on his motor cycle bearing No.AP03 AB 1533 caused by the driver of the lorry bearing No.AP 02 W 5158 belongs to the 1st respondent insured with the 2nd respondent, having aggrieved by the award dated 19.07.2010 for granting compensation of Rs.3,33,000/- with interest at 6% p.a. out of the claim of Rs.21,00,000/- by fixing liability against both the respondents, preferred this appeal with contentions in the grounds of appeal as well as during course of arguments, that the quantum awarded of the tribunal is utterly low, that the tribunal failed to appreciate the educational qualifications and employment and thereby failed to consider his earnings and taken a less amount in arriving quantum. Hence, to set aside the award of the tribunal and grant compensation as prayed for.

2. The 1st respondent-owner and 2nd respondent-Insurer of the crime lorry served but failed to attend, taken as heard and heard the learned counsel for the claimants and perused the material on record.

3. The tribunal taking age 48 years of mother of the deceased, rightly adopted the multiplier 13 as per the expression of Apex Court in **Sarla Verma v. Delhi Transport Corporation**[1] however, taken the earnings of the deceased at Rs.3,000/- p.m. In fact as per the expression in **Latha Wadhwa vs. State of Bihar**[2] held as even no proof of income and earnings, Rs.3,000/- p.m. to be taken for any non-

earning member and even for a housewife for domestic contribution and the same taken herein with prospective earnings of the deceased as the accident took place seven years after said expression, thus taken Rs.4,200/- p.m. if half deducted towards personal expenses, it comes to Rs.2,100/- x 12 x 13= Rs.3,27,000/- besides Rs.25,000/- towards funeral expenses and Rs.10,000/- towards loss of estate awarded, it comes to Rs.3,62,000/- which is just compensation to be awarded with interest at 7.5% p.a. enhancing from 6% p.a. as per the expression of Apex Court in **Rajesh v. Rajbir Singh**[3]. With regard to the qualification and employment of the deceased the tribunal rightly not believed the evidence of P.W.3 Senior Architect, Design Edge, Hyderabad who deposed to the extent of employment provided to the deceased as Office Executive and Exs.A.7 and A.8 so called appointment order and salary certificate hardly issued 15 days before the date of death for no other proof much less even existence of the so called entity.

4. In the result, the appeal is partly allowed by enhancing the compensation of Rs.3,33,000/- to Rs.3,62,000/-(Rupees three lakhs sixty two thousand only) with interest at 7½% p.a. from the date of petition (MVOP) till realization/deposit with notice. Respondents are directed to deposit said amount with interest within one month from today, failing which the claimants can execute and recover. The appellants/claimants are permitted to withdraw the amount. Rest of the award of the tribunal holds good. There is no order as to costs in the appeal.

Dr. B. SIVA SANKARA RAO, J

Date: 29.12.2015

VVR

[1] 2009 ACJ 1298

[2] (2001) 8 SCC 197=AIR 2001 (SC) 3218

[3] 2013(4)ALT 35(SC)