HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A.No. 2700 of 2015

JUDGMENT :

The claimants in O.P.No.149 of 2009 before the Motor Accidents Claims Tribunal-cum-I Additional District Judge, Kadapa, are the appellants herein. The appeal is maintained against claim petition respondents 1 and 2, owner and insurer of the lorry bearing No.KA 01D 2766. The claim petition is filed for Rs.6,00,000/- under Section 166 of M.V. Act by the claimants, who are no other than wife, minor daughter and parents of the deceased.

2. As per Ex.P.3 P.M. report, the age of the deceased was shown as about 24 years. It is claimed that the deceased was grazing sheep and also attending cultivation supervision. Ex.A.7 is No.3 adangal issued by the V.R.O. There is not even any pattadar passbook or title deed to give credence of owning any agricultural land. No doubt, the land is succeeded by the claimants, even otherwise but for any loss as supervisory loss. The accident was dated 24.01.2009. The Tribunal rightly referred, in the absence of proof of earnings, the guideline laid down in ***Latha Wadhwa vs. State of Bihar*** that even there is no proof of income and earnings, it can be reasonably estimated at Rs.3,000/- p.m. for any non-earning member and even for housewife as domestic contribution. However, arrived by estimation of Rs.4,500/- p.m. without basis. Even as per the expression with proportionate increase from the date of expression to the date of accident, even no avocation proved much less agricultural supervision, it can be taken at Rs.4,000/- p.m. If that is taken for 1/4th to be deducted as claimants are four as per the expression in ***Sarla Verma v Delhi Transport Corporation***, it comes to Rs.3,000/- and the loss of dependency comes to Rs.6,48,000/- (Rs.3,000/- x 12 months x ‘18’ multiplier applicable to the age of 25 years of the deceased) + loss of consortium to the 1st claimant Rs.1,00,000/- + funeral expenses Rs.25,000/- as per the expression in ***Rajesh v. Rajbir Singh***+ loss of estate Rs.10,000/- and care and guidance to the minor claimant Rs.10,000/-, in total Rs.7,93,000/- which is the just compensation the claimants are entitled subject to payment of deficit court fee before the Tribunal.

3. In the result, the appeal is allowed. Though the Tribunal arrived at Rs.7,29,000/- and restricted to the claim of Rs.6,00,000/-, as per ***Rajesh case (3 supra)***, the claimants are entitled to the just

compensation which is arrived at Rs.7,93,000/- by enhancing the rate of interest from 6% p.a. to 7.5% p.a. from today till the date of realization by upholding the rate of interest as awarded by the Tribunal i.e., 6% p.a. from the date of petition till date. The claimants are directed to deposit the deficit court fee before the Tribunal under Rule 475 of the A.P.M.V. Rules, failing which, they are not entitled to execute the award. The Insurer, 2nd respondent to the claim petition, is directed to deposit the balance amount within one (1) month from the date of receipt of a copy of the appeal award. There is no order as to costs in the appeal.

Consequently, miscellaneous petitions, if any pending in this appeal shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

2nd December, 2015

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