

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

MACMA MP No.613 OF 2012

IN/AND

MACMA No.2578 OF 2015

ORDER:

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This appeal is filed challenging the order dated 09.02.2010 in O.P.No.559 of 2007 on the file of Motor Accidents Claims Tribunal-cum-Family Court, Nellore.

2. MACMA.M.P.No.613 of 2012 is filed under Section 5 of the Limitation Act, 1963 to condone the delay of (610) days in filing the appeal.
3. Heard. The reason assigned for the delay is that due to lack of funds to file the appeal by engaging advocate in the High Court. Hence, for the reasons stated in the affidavit filed in support of the petition, the delay of 610 days in filing the appeal is condoned. The Registry is directed to number the appeal if otherwise in order.
4. At request of both sides, the appeal is taken up for final hearing and disposal and also perused the material on record.
5. The 1st respondent, owner of vehicle remained exparte before the tribunal and even impleaded as party to the un-numbered appeal and delay condonation petition and even dismissed for default, vide **Meka Chakra Rao vs Yelubandi Babu Rao @ Reddemma**, it no way comes to maintainability of the appeal and the same is recorded.
6. The claimants 1 to 4 are no other than parents and major sisters of the deceased, aged about 22 years and the parents age shown between 41 to 46 years, in the claim filed under Section 163-A of the Motor Vehicles Act for Rs.3,50,000/- and the tribunal awarded compensation of Rs.1,75,000/- with interest at 7.5% p.a. Impugning the said award, the claimants preferred the appeal, with a delay of 610 days.

7. The tribunal awarded Rs.1,50,000/- towards loss of dependency, Rs.10,000/- towards transport and medicines, Rs.10,000/- towards loss of estate and Rs.5,000/- towards funeral expenses. The tribunal, no doubt, discussed about multiplier of '15' but the annual income taken at Rs.20,000/- and deducted half of the amount i.e., Rs.10,000/- p.a. towards personal expenses and arrived loss of dependency at Rs.1,50,000/-. The learned counsel placed reliance on **Kishan Gopal Vs Lala**, at page No.257, para 39 that even in the absence of proof of earnings of the claim under Section 163-A of the Act, 'Rs.15,000/-' annual income to be read as 'Rs.30,000/-'. If this amount is taken from the dependency to the parents or other claimants, as the case may be, after deduction of 1/3rd towards personal expenses it comes to Rs.20,000/- and the multiplier '15' is adopted as per Schedule of the Act, it comes to Rs.3,00,000/-. Apart from the same, the claimants are entitled to Rs.2,500/- towards loss of estate and Rs.2,000/- towards funeral expenses, as per the table of Schedule of the Act for the claim under Section 163-A of the Act, it comes to Rs.3,04,500/-.
8. Accordingly, the appeal is partly allowed by enhancing the compensation from Rs.1,75,000/- to Rs.3,04,500/- with interest at 7.5% p.a. The claimants are not entitled to claim any interest on the enhanced amount till today but they are entitled for the same from today i.e., 09.11.2015 till payment or realization. There is no order as to costs.
9. Miscellaneous petitions, pending if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:09-11-2015

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