

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

M.A.C.M.A.M.P. No. 2765 OF 2012

IN M.A.C.M.A No.2779 of 2015

AND

M.A.C.M.A (SR) No.2779 of 2015

ORDER :

Heard the learned counsel for the claimants, no other than parents of the deceased girl aged about 7 years as per Ex.A-4 post mortem report and also the 2nd respondent insurance company represented by the counsel, for respondent No.1, owner of the lorry bearing No.HR 55 C 9980 who remained exparte before the Tribunal even impleaded and dismissed for default, not fatal as laid down in **Meka Chakra Rao v. Yelubandi Baburao**^[1] by recording the same, the application for delay condonation of seven days is allowed subject to condition of not entitled to interest till date and at request of both sides, appeal is taken up for hearing and perused the award of the Tribunal, in the claim filed under Section 166 of the M.V.Act claiming compensation of Rs.5,00,000/-, the Tribunal awarded Rs.1,50,000/- by referring the expression of the Apex Court in **Majudevi V. Musafir Paswan**^[2] where it was held taken into consideration of the age of boy of 13 years, there Rs.2,25,000/- was the just compensation even by adopting the multiplier of 15 by taking the earnings the minimum at Rs.15,000/- per annum as per Schedule II of

the Act read with Section 163-A of the Act and the Tribunal considering the same for the deceased up to 7 years awarded Rs.1,50,000/-.

2) It is the contention of the learned counsel for the claimants that leave about the compensation under Section 166 of the Motor Vehicles Act, the other conventional sums to be awarded apart from Rs.1,50,000/- is utterly low to enhance.

3) Perused the entire material on record by taking into consideration of these facts and also the multiplier 15 for the persons aged up to 15 years not only provided by Schedule II of the Act but also clarified by the Apex Court in ***Reshma Kumari V. Madan Mohan***^[3]. As the deceased has no earnings, even taken the same, there from this Court also feels from the expression of the Apex Court supra says for a child of age 7 to 8 years, the life certainty is bleak, the Court has to keep in mind for contingency also in taking the multiplier or multiplicand to arrive, just compensation, thereby this Court feels that it is just to award a sum of Rs.1,75,000/- towards compensation apart from a sum of Rs.10,000/- towards loss of estate, Rs.25,000/- towards funereal expenses and Rs.15,000/- towards love and affection to the parents. In all it comes to Rs.2,25,000/- towards compensation to the claimants.

4) In the result, the appeal is partly allowed by enhancing the compensation from Rs.1,62,000/- to Rs.2,25,000/-, however, the rate of interest at 7.5% shall be calculated from today till the date of realization on the enhanced amount. Rest of the terms of the award of the Tribunal holds good. There shall be no order as to costs.

5) Miscellaneous petitions, if any pending, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

11.12.2015
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- [\[1\]](#) 2001(1)ALT 495 DB
[\[2\]](#) 2005 ACJ 1999
[\[3\]](#) 2013 ACJ-1253 (3 Judge bench)