

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

MACMA MP No.3309 of 2009

IN/AND

M.A.C.M.A.No.2896 of 2015

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ORDER :

Heard the learned counsel for the claimants/appellants vis-à-vis the 2nd respondent insurer in the un-numbered appeal and the delay condonation application of 997 days in filing the appeal with the reason assigned of poverty and lack of means to file appeal timely and the delay is condoned subject to condition of not entitled to interest on any enhanced amount but for from today.

2. At request, the appeal is taken up for hearing. The 1st respondent to the appeal, who is owner of auto bearing No. AP 21 V 2021 remained exparte before the tribunal and even served failed to attend.

3. Heard and perused the material on record.

4. So far as finding of the tribunal fixed the liability of the auto driver at 25% in which the deceased was traveling belongs to the 1st respondent insured with 2nd respondent and the remaining 75% is of the jeep driver of the untraced jeep against whom the police filed final report charging for the offence for the death of the deceased, there is nothing to interfere but for the quantum arrived since utterly low to enhance.

5. Coming to the quantum of compensation that it is claimed in the claim petition at Rs.150/- per day as earnings of

the deceased as on the date of accident. As per **Lata Wadhwa V State of Bihar**^[1], in the absence of proof of earnings, minimum Rs.3,000/- p.m. to be taken. If the same is adopted of the accident three years after the expression by taking Rs.3300/- p.m. and Rs.39,600/- p.a. and 1/3rd deducted towards personal expenses, as out of four claimants two are majors and one is married daughter and other major son not dependents and as per **Sarla Verma v Delhi Transport Corporation**^[2] paras 30 to 33 stated if the dependants are more than three, the personal expenses deduction is 1/4th, here not applicable, there from it comes to Rs.26,400/- and the same is multiplied with multiplier '14', it comes to Rs.3,69,600/-. Apart from the same, the claimants are entitled to Rs.1,00,000/- towards loss of consortium, Rs.25,000/- towards funeral expenses, Rs.10,000/- towards loss of estate, Rs.10,000/- towards care and guidance to one minor child (vide **Rajesh Vs. Ranbir Singh**^[3]). Thus, in total it comes to Rs.5,14,600/- and 1/4th of the same comes to Rs.1,28,650/-.

6. Accordingly and in the result, the appeal is partly allowed by enhancing compensation from Rs.52,250/- to Rs.1,28,650/- but however the interest at 7.5% p.a. is awarded on the enhanced amount from today i.e., 29.12.2015 only. There is no order as to costs.

7. Miscellaneous petitions, if any pending, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:29-12-2015
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[\[1\]](#) AIR 2001 (SC) 3218
[\[2\]](#) 2009 ACJ 1298.
[\[3\]](#) **2013 ACJ 1403**