

HONOURABLE Dr. JUSTICE B. SIVA SANKARA RAO

M.A.C.M.A.No.649 OF 2008

JUDGMENT:

The 2nd respondent-Insurer among the two respondents including the owner of the auto bearing No.AP 23U 3100, impugning the award of the tribunal dated 26.11.2007 in O.P.No.1468 of 2006 on the file of the learned Chairman, Motor Accidents Claims Tribunal-cum-XXI Addl.Chief Judge, Hyderabad (*for short, 'Tribunal'*), filed under Section 166 of the Motor Vehicle Act, 1988 (*for short, 'the Act'*), by the 5 claimants, no other than the wife, three minor children and mother of the deceased G.Mallesha, for his death, for a claim of Rs.7,50,000/- since awarded of Rs.4,43,000/- with interest at 6%p.a. by fixing joint liability to the extent of pay and recovery, preferred the appeal impugning the joint liability instead of exoneration and also on the quantum as excessive.

2. Heard the learned counsel for the appellant-Insurer of the crime vehicle and also learned counsel for the claimants and it is their submission that the compensation awarded by the tribunal is utterly low to enhance but for no cross-objections as well as rate of interest and perused the material on record.

3. The evidence on record shows including from R.Ws.1 and 2 with reference to the Exs.B.4 Driving license of driver of the auto and B.2 letter dated 26.06.2007 and Ex.X.1 Grant of issue of driving license of M.Suresh, the driver got Light Motor Vehicle (*for short, 'LMV'*) non transport instead of LMV transport. Undisputedly, Ex.B.1 policy covers the risk. It is therefrom the tribunal ordered pay and recovery but not

elaborated the directions. So far as non exoneration but for to the extent of pay and recovery concerned, there is nothing to interfere with the award of the tribunal but for elaborating the pay and recovery directions.

4. Coming to the quantum of compensation awarded of Rs.4,43,000/-, the accident was dated 04.05.2006. The age of the deceased is 32 years. The multiplier applicable is 16. The earnings of the deceased even taken of Rs.3,500/- per month, if 1/4th deducted for the claimants are 5 in number all dependents, it comes to Rs.2625/- x 12 x 16(multiplier)= Rs.5,04,000/- and what the tribunal awarded thereby no way requires interference much less to reduce but for the rate of interest from 6%p.a. to 7.5%p.a.

5. In the result, appeal is disposed of while confirming the quantum of compensation and enhancing rate of interest from 6%p.a. to 7.5%p.a. with the following pay and recovery directions:-

The 2nd respondent-Insurer (appellant herein) is directed to pay the compensation to the claimants first and then to recover from the 2nd respondent-owner. The respondents shall deposit said amount within one month from the receipt of this order, if not deposited yet, failing which the claimants can execute and recover. It is made clear that the insurer is entitled while depositing the amount payable, to approach the Tribunal to direct the RTA concerned not to register any transfer of the crime vehicle and to seek for attachment of the crime vehicle or other property of the insured as an assurance for execution and recovery in the same proceedings or under revenue recovery as per the MV Act, 1988 and also ask the Tribunal not to disburse the deposited amount to

claimant (but for to invest in a bank) till such attachment order is made. However, after the same, the Tribunal shall not withhold the amount of the claimants, if there is any necessity to permit for any withdrawal but for to invest the balance in fixed deposit in a nationalized bank. Rest of the award holds good. No costs. Consequently, miscellaneous petitions, if any pending in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 21.09.2016
Vvr

