

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A No.636 OF 2005

JUDGMENT:

The claimants are six in number, who are no other husband and five major children of deceased by name Mandhwar Shanthibai, aged about 35 years as per Ex.A3—post mortem report, maintained O.P. No.1396 of 2001 on the file of Motor Accidents Claims Tribunal – cum – I Additional District Judge, Nizamabad, against two respondents i.e., owner and insurer of lorry bearing No.AP 25 U 111 for compensation of Rs.5,00,000/- under Section 166 of M.V.Act (for short 'the Act'), from the contest of 2nd respondent, the Tribunal having held that the accident was the result of rash and negligent driving of driver of 1st respondent, granted compensation of Rs.2,30,000/- with interest at 9% per annum from the date of petition till realisation against respondents. Impugning the quantum of compensation awarded by the Tribunal, the claimants preferred this appeal.

2) Heard learned counsel for appellants and learned standing counsel for 2nd respondent—insurer. The 1st respondent—owner of the vehicle remained exparte before the Tribunal and even served notice failed to attend hence taken as heard. Perused the material on record.

3) A perusal of the claim petition shows that the eldest daughter of deceased is about 23 years and the husband of the deceased is about 42 years, thus, the age of the

deceased can be taken between 35-40 and the multiplier applicable is '15' as per the expression of the ***Sarla Verma vs Delhi Transport Corporation***^[1]. There is no proof regarding the earnings of the deceased. Even as per ***Latha Wadhwa vs State of Bihar***^[2] in the absence of proof of earnings, minimum Rs.3,000/- is to be taken as earnings and as the claimants being majors, they are not dependents but for to consider the contribution by the deceased even if 1/3rd is deducted towards personal expenses, it comes to Rs.2,000/- per month, then the loss of dependency comes to Rs.3,60,000/- (Rs.2,000/- X 12 X 15). Apart from it, Rs.10,000/- towards loss of estate, Rs.25,000/- towards loss of funeral expenses, Rs.50,000/- towards loss of consortium granted to 1st claimant, in all it comes to Rs.4,45,000/- is the just compensation.

4) Coming to rate of interest, the Tribunal awarded at 9% per annum from the date of claim petition till the date of realization, which is highly excessive and exorbitant reduced to 7.5% per annum from the date of appeal till the date of realisation as per the settled expressions of the Apex Court in ***TN Transport Vs. Raja Priya***^[3] and ***Rajesh Vs. Rajbir Singh***^[4].

5) Accordingly and in the result, the appeal is partly allowed enhancing the compensation from Rs.2,30,000/- (Rupees two lakhs thirty thousand only) to Rs.4,45,000/-

(Rupees four lakhs forty five thousand only) and reducing the rate of interest from 9% per annum to 7.5% per annum from the date of petition till realisation. In other respects the award of the Tribunal holds good. No order as to costs.

6) Consequently, Miscellaneous petitions, if any pending in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Dt.08.07.2016
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[\[1\]](#) 2009 ACJ 1298
[\[2\]](#) AIR 2001 SC 3218
[\[3\]](#) 2005 (6) SCC 236
[\[4\]](#) 2013 ACJ 1403