

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

M.A.C.M.A.No.971 of 2011

JUDGMENT:

The 2nd respondent insurer among the two respondents including the owner of the auto bearing No.AP-21-X-7820, impugning the award of the Tribunal dated 21.05.2009 in O.P.No.317 of 2008 on the file of Motor Accident Claims Tribunal-cum-Principal District Judge, Kurnool, maintained by the 4 claimants, no other than parents and minor brother and sister of the deceased by name Shaik Abdulla aged about 18 years in the claim under Section 166 of Motor Vehicles Act for Rs.3,00,000/- with averments that the deceased boarded auto, while proceeding due to rash and negligent driving of the driver, the auto turned turtle and from the contest by the 2nd respondent from the 1st respondent remained exparte, the Tribunal held the accident was the result of the rash and negligent driving of the driver of the 1st respondent, insured with the 2nd respondent, awarded a sum of Rs.1,97,800/- with interest @ 9% per annum. Impugning the same the present appeal is maintained.

Heard learned counsel for the appellant insurer and learned counsel for the claimants and for 5th respondent, 1st respondent to the claim petition, failed to attend and perused the material on record.

Though what the learned counsel for the appellant pointed out of the Tribunal gravely erred in taking 1/3rd deduction instead of half despite the expression of the Apex Court in **Sarla Verma Vs.**

Delhi Transport Corporation¹, even same is rectified and taken half deduction what the Tribunal taken the income of the deceased of Rs.1,800/- per month, from the expression of the Apex Court in **Latha Wadhwa vs. State of Bihar**², a minimum of Rs.3,000/- per month to be taken and it is just to take Rs.3,700/- per month by the date of accident and half deducted and multiplied by '15' multiplier including from the age of the mother, thereby what the Tribunal awarded is utterly low but for no cross objections to enhance, however to reduce the rate of interest from 9% to 7.5% per annum as per the expressions in **TN State Corporation Limited Vs. S.Rajapriya**³ and **Rajesh Vs. Rajbir Singh**⁴.

Accordingly and in the result, the appeal is partly allowed by reducing the rate of interest from 9% to 7.5% per annum. In other aspects the award of the Tribunal holds good.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 29.11.2016
ska

¹ 2009 ACJ 1298.

² (2001) 8 SCC 197=AIR 2001 (SC) 3218

³ 2005(6) SCC 236.

⁴ 2013 ACJ 1403