

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A.No.362 of 2010

JUDGMENT:

The claimants, no other than wife and major son of the deceased-S.Pullaiah, claimed as aged about 46 years in M.A.T.O.P.No.393 of 2007 for a compensation of Rs.3,00,000/- maintained under Section 166 of the Motor Vehicles Act (for short 'the Act'), for the accidental death on 02.08.2006 while travelling in the bus of the respondents bearing No.AP 9Z 9801 when deceased was getting down from the bus at Jagannadhapuram Village, the driver without waiting stated moved and from the said jerk, the deceased fell down on the road and sustained injuries and was succumbed before shifting to the Primary Health Centre, Wazedu vide crime No.21 of 2006, the tribunal there from having held that the accident was the result of rash and negligent driving of the bus, taken the age of the deceased between 55 to 60 years, though Ex.A3-P.M.Report shows 45 years from the age of the 1st claimant-PW.1 as 55 years at the time of evidence in the deposition and awarded compensation of Rs.1,28,000/- with interest 7.5%p.a. same is impugned as utterly low in seeking to allow the claim as prayed for.

2. The learned counsel for the claimants contended that the multiplier taken and multiplicand arrived at are utterly low, to enhance modifying the award dated 20.08.2009 by allowing the appeal as prayed for.

3. Whereas, it is the submission of the learned Standing Counsel for the APSRTC that the award of the tribunal holds good and for this Court while sitting in appeal, there is nothing to interfere and hence to dismiss the appeal. Heard and perused the material on record.

4. Undisputedly, there is no appeal by APSRTC and there is nothing even to interfere on the finding of the death of the deceased is outcome of the negligence of the bus driver, without even waiting for signal of the conductor to proceed with in moving, while the deceased was getting down, having the opportunity to avert the accident.

5. Coming to the quantum of compensation, the accident was on 02.08.2006. The tribunal taken the earnings of the deceased, out of the claim of Rs.60,000/- p.a. from agricultural has not proved, taken Rs.15,000/- p.a. In *Lata Wadhwa v. State of Bihar*¹, in the absence of proof of earnings, minimum Rs.3,000/- to be taken into consideration and the accident was about five years after the expression,

¹ AIR 2001 (SC) 3218

the earnings of the deceased can be taken at Rs.3,500/- p.m. If $1/3^{\text{rd}}$ is deducted towards personal expenses of the deceased, it comes to Rs.2,333/- p.m. and Rs.28,000/- p.a. and the same is multiplied with the multiplier '9' (applicable from the age of the deceased), it comes to Rs.2,52,000/-. Apart from the same, the claimants are entitled to Rs.50,000/- towards loss of consortium, Rs.10,000/- towards loss of estate and Rs.25,000/- towards funeral expenses. Thus, in total Rs.3,37,000/- is the just compensation to enhance from Rs.1,28,000/- to Rs.3,37,000/-.

6. Accordingly, the appeal is allowed by enhancing the compensation from Rs.1,28,000/- to Rs.3,37,000/-, subject to payment of deficit Court fee under Rule 475 of the A.P.M.V.Rules. The claimants are entitled to the interest at 7.5%p.a. on the enhanced amount from today only. In other respects, the award of the tribunal holds good. There is no order as to costs.

7. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

Date:03.11.2016
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