

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A.M.P.No.6 of 2011

IN/AND

M.A.C.M.A No.295 of 2016

JUDGMENT:

Heard. The delay of 24 days in filing the appeal is condoned subject to not entitled to interest on the enhanced amount.

2. The appeal is taken up for hearing. Heard learned counsel for the claimants/appellants and the second respondent-insurer. The first respondent, owner of the vehicle, remained *ex parte* before the Tribunal and even though impleaded in the appeal, the appeal against him was dismissed for default, which is no way fatal vide expression of the Hon'ble Apex Court reported in **Meka Chakra Rao v. Yelubandi Babu Rao @ Reddemma And others**^[1].

3. The main contention in the grounds of appeal is the Tribunal mainly erred in not awarding compensation of Rs.17,00,000/- , but for awarded an amount of Rs.12,50,000/- thereby it requires enhancement. As per Ex.A.6 salary certificate coupled with evidence of P.W.3, the deceased was earning gross salary of Rs.10,888/- per month as on the date of his death and he was aged about 45 years as evident from Ex.A.1 vis-à-vis postmortem report. If 30% enhancement is made to Rs.10,888/- as per **Sarla Verma v. Delhi Transport Corporation**^[2], it comes to Rs.14,154/- . If 15% towards income tax is to be deducted, it comes to Rs.12,031/-. Even Rs.231/- is deducted towards Provident Fund and other compulsory deduction, if any, it comes to Rs.11,800/-. If 1/3rd is deducted towards personal expenses of the deceased, it comes to Rs.7867. The appropriate multiplier from the age of 45 years as per **Sarla Verma's case (2 supra)**, is 13.5. After applying the said multiplier, the loss of dependency comes to Rs.12,74,454/- (7867 x 12x 13.5) besides loss of consortium Rs.1,00,000/-, funeral expenses Rs.20,000/-, loss of love and

affection Rs.20,000/- and care and guardian of third claimant Rs.5,000/-. Thus, the total compensation comes to Rs.14,19,454/- which is the just compensation. However, not entitled to interest but for from today on the enhanced amount.

4. Accordingly, M.A.C.M.A.M.P.No.6 of 2011 is ordered the appeal is partly allowed enhancing the compensation from Rs.12,50,000/- to Rs.14,19,500/- with interest at 7.5% however, not entitled to interest on the enhanced amount, but for from today till realization. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this appeal shall stand closed.

Dr. B. SIVA SANKARA RAO, J

JANUARY 21, 2016

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HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

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M.A.C.M.A.M.P.No.6 of 2011
IN/AND
M.A.C.M.A (SR) No.46792 of 2010

Date: 21.01.2016

[\[1\]](#) 2002 ACJ 828
[\[2\]](#) 2009 ACJ 1298