

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A.M.P.No.3393 of 2011

IN/AND

M.A.C.M.A.No.195 of 2016

ORDER:

Heard and perused the material on record.

2. For the reasons stated in the affidavit filed in support of the petition, the delay of 29 days in filing the appeal is condoned, subject to condition of not entitled to interest on any enhanced amount but from August, 2011, as the appeal with delay condonation application is presented in July, 2011. At request of both sides, the appeal is taken up for hearing.

3. The claimants are seven in number, no other than wife, four minor children and parents, who are dependants on the deceased by name, Sankarappa, aged about 32 years as per Ex.A2-Post Mortem report. The ages of the wife, parents and the eldest child are shown as 28 years, 60, 63 and 12 years, respectively. In the claim petition under Section 166 of the Motor Vehicles Act, the multiplier applicable for a person aged between 31 to 35 years is '16', as rightly taken by the tribunal.

4. So far as the earnings of the deceased, he is shown as member of the Weavers' Society and did not file any evidence to show that he got 20 looms and got income there from though claimed as Rs.30,000/- p.m. the tribunal taken there from Rs.2400/- p.m. as a coolie and wage earner. The accident was dated 13.07.2008. As per **Lata Wadhwa V State of Bihar**^[1], in the absence of proof of earnings, minimum Rs.3,000/- p.m. to be

taken with proportionate increase from that expression to the date of death it can be taken Rs.3,600/- p.m. minimum. The claimants as referred supra, more than six in number, as per **Sarla Verma v Delhi Transport Corporation**^[2], 1/5th has to be deducted towards personal expenses and not 1/3rd. If the same is calculated it comes to Rs.2,880/- p.m. x 12 x 16 = Rs.5,52,960/-. Apart from it, the petitioners are entitled to Rs.10,000/- towards loss of estate, Rs.40,000/- towards care and guidance for four minor children (vide **Rajesh Vs. Ranbir Singh**^[3]). Rs.25,000/- towards funeral expenses and Rs.1,00,000/- towards consortium to the first claimant. Thus, in total, it comes to Rs.7,27,960/-, which is rounded to Rs.7,28,000/- and what the tribunal awarded of Rs.3,18,200/- is utterly low.

5. Though the claimants claimed Rs.5,00,000/- as compensation, as per the expression of the Apex Court in **Rajesh** (supra), they are entitled to just compensation of Rs.7,28,000/- subject to payment of deficit Court fee under Rule 475 of Andhra Pradesh Motor Vehicle Rules.

6. So far as interest awarded by the tribunal at 6% is concerned, as per **TN Transport Corporation v. Raja Priya**^[4] and **Rajesh** (supra), it is 7.5% p.a. to award thereby by upholding the rate of interest awarded by the tribunal till today and enhanced from today to till realization at 7.5% p.a.

7. Accordingly and in the result, the appeal is allowed by enhancing compensation from Rs.3,18,200/- to Rs.7,28,000/- and by upholding 6% interest on the original amount and by

awarding interest on the enhanced amount only from 01.08.2011 @ 6% till date and hereafter at 7.5% p.a. till realiation. There is no order as to costs.

8. The claimants/appellants are not entitled to execute decree without payment of deficit court fee.

9. Miscellaneous petitions, pending if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:25-01-2016

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[\[1\]](#) AIR 2001 (SC) 3218

[\[2\]](#) 2009 ACJ 1298.

[\[3\]](#) **2013 ACJ 1403**

[\[4\]](#) (2005) 6 SCC 236