HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

C.M.A. No.994 of 2004

JUDGMENT:

APSRTC rep. by its Managing Director and Depot Manager of Falaknuma Depot, respectively, who are respondents 1 and 2 in O.P. No.2252 of 2000, which is maintained by the mother and sister of deceased by name Venkatesh (unmarried), aged 25 years as per Ex.A4—post mortem report, for a compensation of Rs.3,80,000/- under Section 166 of M.V. Act, but the Tribunal awarded Rs.3,08,000/- with interest at 9% per annum vide award dated 15.10.2003, impugning the same, maintained the present appeal mainly disputing the quantum of compensation.

2) Heard learned standing counsel for appellants and learned counsel for respondents. Perused the material available on record.

3) For the reason of contention of no rash and negligent driving of bus driver of the collision with tourist bus, not proved as rightly held by the Tribunal much less by examination of driver or able person on behalf of respondents against the oral evidence of PW.2—eye witness besides Ex.A1—FIR, Ex.A2—charge sheet against respondents 1 and 2. The notice sent to respondents 1 and 2 is not yet served for insufficient address and there is no progress though the matter is kept pending for 12 years from appellants' side. Though no order can be passed without service adversely against the respondents to the appeal, in fact even to keep the appeal pending and await for service of notice as referred supra, what the compensation awarded is Rs.3,08,000/- but the Tribunal taken the age of the deceased at 26 years and adopted multiplier '17' even taken from the age of the mother i.e., 42 years, the multiplier applicable is '14'.

4) As per Ex.A8—salary certificate the deceased was driver of the tourist bus bearing No.AP 16 T 4777 and used to earn Rs.3,000/- + Rs.20/- per day as batta, as on the date of accident i.e., 13.04.1998, which comes to Rs.3,600/- per month but what the Tribunal has taken Rs.18,000/- per annum as net income of the deceased after 1/3rd deduction. In fact, out of

Rs.3,600/- supra, if half deducted towards personal expenses, it comes to Rs.3,02,400/- (Rs.1800/- X 12 X 14). Apart from it, Rs.25,000/- towards funeral expenses, Rs.10,000/- towards loss of estate vide ***Rajesh vs Rajbir Singh***[1], in all it comes to Rs.3,37,400/- but what the Tribunal awarded is no way excessive, thereby, there is no purpose to keep the matter pending by ordering notice further without service.

5) Accordingly, the appeal is dismissed for no grounds. 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.03.06.2016
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C.M.A. No.994 of 2004

Date:03.06.2016

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[1] 2013 ACJ 1403