

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A. No.661 OF 2010

JUDGMENT:

The claim petition-respondent—RTC maintained the appeal, against the award passed on 05.12.2008, in M.V.O.P. No.191 of 2008 on the file of Chairman, Motor Accidents Claims Tribunal-cum-V Additional District Judge, Rayachoti, (for short 'the Tribunal') which was maintained by the wife, mother, major son, minor son and minor daughter of deceased Shaik Anwar Basha, aged about 40 years as per Ex-A3—post mortem report, under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act'), for a compensation of Rs.4,00,000/-, for the accidental death of deceased Anwar Basha in the motor accident occurred on 10.12.2006, from the contest of respondent—RTC, the Tribunal awarded compensation of Rs.3,94,000/- with interest at 7.5% per annum with finding that the accident was the result of rash and negligent driving of the driver of the bus of the RTC.

2) It is the contention of the learned counsel for the appellant—RTC that the Tribunal ought to have considered the accident was the result of negligence of the deceased but for no fault of the bus driver and at best there is contribution of the deceased and the quantum of compensation arrived is excessive and exorbitant, so also the rate of interest, hence to fix contributory negligence on the part of the deceased and prayed to reduce the compensation if not to exonerate fully. Whereas it is the contention of the respondents—claimants that the award of the Tribunal holds good for this Court while sitting in appeal there is nothing to interfere, and prayed to dismiss the appeal.

3) Heard both sides and perused the material on record.

4) There is no oath against oath from the respondents much less by examination of driver and there is no worth cross examination from PW.1 and eye witness—PW.2 deposed in one line that is also from Exs.A1 and A4 supporting as concluded by the tribunal in holding that the accident was the result of rash and negligent driving of the driver of the bus and for no fault of the deceased and therefrom, there is nothing to interfere with the reasoned finding of the Tribunal to that extent but for to decide any dispute on the quantum.

5) Coming to the quantum of compensation of Rs.3,94,000/- with interest at 7.5% per annum awarded by the Tribunal, even the earnings of the deceased at the time of accident taken with prospective increase at Rs.3,500/- per month in the absence of proof of earnings from the expression of the Apex Court in **Lata Wadhwa vs State of Bihar**¹ of the minimum earnings can be taken at Rs.3,000/- per month, if 1/4th deducted towards personal expenses from the dependants are five in number as per **Sarla Verma Vs Delhi Transport Corporation**² and from the age of the deceased the multiplier applicable is 16, thereby, the loss of dependency comes to Rs.4,48,128/- (Rs.2334/- X 12 X 16), leave about further entitlement of Rs.50,000/- towards loss of consortium, Rs.25,000/- towards funeral expenses, Rs.10,000/- towards loss of estate and Rs.20,000/- towards care and guidance to the two minor children. Thus, what the Tribunal awarded is no way excessive so also the rate of interest.

6) Accordingly and in the result, the appeal is dismissed. No order as to costs.

¹ AIR 2001 SC 3218

² 2009 ACJ 1298

7) Consequently, Miscellaneous petitions, if any pending in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Dt.08.12.2016
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Date:08.12.2016

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