

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A. M.P. No.2158 of 2011

IN/ AND

M.A.C.M.A. No.719 of 2016

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JUDGMENT:

The claimants who are wife and major sons of deceased by name P.Damodar Reddy, aged 48 years as per Ex.A7—post mortem report, maintained the claim O.P. No.468 of 2008 on the file of XII Additional Chief Judge-cum-Motor Accidents Claims Tribunal, City Criminal Court, Hyderabad, (for short ‘the Tribunal’) under Section 166 M.V Act for the death of deceased in the accident dated 03.10.2007, claimed for Rs.10 lakhs and the Tribunal awarded compensation of Rs.6,33,500/- with interest at 7.5% per annum against the insurer. It is now impugning the same, the quantum of compensation granted by the Tribunal is utterly low, the present appeal is filed.

2) Heard learned counsel for appellants. Respondent No.2—insurer even served failed to attend hence taken as heard. Respondent No.1—owner of the vehicle remained ex parte before the Tribunal even impleaded in the appeal dismissed for default, is no way fatal to the maintainability of the appeal vide ***Meka Chakradhara Rao vs Yelubandi Babu Rao***^[1] and the same is recorded.

3) The delay of 205 days in filing the appeal is condoned subject to condition of not entitled to interest on any enhanced amount but from today.

4) At request of learned counsel for appellants, the appeal is taken up for hearing. Perused the material on record.

5) Learned counsel for appellants submitted that the deceased was working as accountant in New Vijayalaxmi Extraction and Refinery (P) Limited at Kothur Village, Mahabubnagar District by earning Rs.8,100/- per month which is covered under Ex.A4—salary certificate. It is rightly pointed out by the Tribunal including from the cross examination of PW.3, no other than son of deceased that he prepared the so-called salary certificate without signature and seal of employer and not the one obtained from the employer and there is no proof. PW.3 further deposed that his father studied upto 10th class only. It is highly unbelievable that deceased was working as supervisor, from the evidence of PW.4, who is working as accountant in that company, much less drawing Rs.8,100/- per month as salary in the so-called entity and the same is also rightly not proved. However, Tribunal taken the earnings of the deceased at Rs.6,000/- per month without even any basis as earnings of the deceased. As per **Latha Wadhwa vs State of Bihar** ^[2] in the absence of proof of earnings minimum Rs.3,000/- per month to be taken, as the date of accident is 02.10.2007 with proportionate increase Rs.3,600/- per month is to be taken and believing as self earned and independent means with prospective increase of 30%, it comes to Rs.4,680/-, the suitable multiplier applicable, from the age of the deceased is 48 years, is '13' as per **Sarla**

Verma Vs Delhi Transport Corporation^[3], if 1/3rd deducted towards personal expenses it comes to Rs.4,86,720/- (Rs.3,120/- X 12 X 13). Apart from it, Rs.1,00,000/- towards loss of consortium, Rs.25,000/- towards funeral expenses and Rs.10,000/- towards loss of estate as per the Apex Court's expression in **Rajesh vs Rajbir Singh**^[4], it comes to Rs.6,21,720/- and what the Tribunal awarded of Rs.6,33,500/- is in fact excessive and no way less. Thus, there are no grounds to enhance the compensation. Rest of the terms of award holds good.

6) Accordingly and in the result, the appeal is dismissed confirming the award passed by the Tribunal. No order as to costs.

7) Consequently, miscellaneous petitions, if any pending in this Appeal shall stand closed.

Dr. B. SIVA SANKARA RAO, J

25.01.2016
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HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

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Date: 25.01.2016

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[\[1\]](#) 2001 (1) ALT 495 DB
[\[2\]](#) AIR 2001 SC 3218
[\[3\]](#) 2009 ACJ 1298mul
[\[4\]](#) 2013 ACJ 1403