

**HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO**

**M.A.C.M.A. No.98 of 2010**

**AND**

**CROSS OBJECTIONS M.P.No.1282 of 2016**

**in/and**

**CROSS OBJECTIONS (SR) No.35070 of 2015**

**COMMON ORDER :**

The APSRTC maintained the appeal impugning the award of the Tribunal dated 06.04.2009 in M.V.O.P.No.1249 of 2007, in the claim maintained for Rs.8,00,000/- under Section 166 of the Motor Vehicles Act by the wife, two minor children and mother of the deceased-late Chittireddy Rama Krishna Reddy, aged about 30 years, for the accidental death dated 23.05.2007, while the deceased was proceeding on his motor cycle bearing No.AP 24 F 5246, the opposite coming APSRTC bus bearing No.AP 11 Z 723, from the alleged rash and negligent driving of its driver dashed the bike. The Tribunal having held that the accident was the result of rash and negligent driving of the driver of the bus-RW.1, by disbelieving his evidence as to no rash and negligent driving of him, awarded compensation of Rs.5,96,600/- with interest at 7.5% p.a. It is impugning the same, present appeal is maintained.

2. Cross Objections in S.R.No.35070 of 2015 filed with M.P.No.1282 of 2016 to condone the delay of 2343 days in filing the cross-objections by the claimants. So far as the cross-objections delay condonation application concerned, the provision itself is very clear that after service of notice, the cross-objections are to be filed within the statutory time. It is not the case of no notice served and no

appearance through Advocate put up. Once such is the case, there is no ground at all to condone any delay that too for 2343 days in filing the cross-objections. Thereby the M.P. is dismissed and the unnumbered cross-objections are rejected.

3. Now coming to the merits of the appeal impugned by the RTC on the quantum concerned, the deceased is claimed as agriculturist and the Tribunal taken the earnings of the deceased by estimation at Rs.3,600/- per month as on the date of accident, which is sustainable even from the expression of the Apex Court in **Latha Wadwa and others v. State of Bihar and others**<sup>1</sup>, with proportionate increase of Rs.3,000/- per month from that expression and as per Schedule-II of the claim under Section 163-A of the Act, '18' multiplier that is applicable. In fact, the claim petition is mentioned impugning both provisions though the Tribunal conducted enquiry, it ought to have asked the parties, if not chosen, to proceed either under Section 163-A or 166 of the Act. From perusal of the award of the Tribunal, there was a finding of the accident was the result of rash and negligent driving of the driver of the bus and the skid marks on the road from the scene of observation report also supports the finding of the Tribunal that it proceeded under Section 166 of the Act. When such is the case, the multiplier applicable from the age of the deceased as per **Sarla Verma vs. Delhi Transport Corporation**<sup>2</sup> is '17' and the claimants since four in number and all are dependants, 3/4<sup>th</sup> has to be

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<sup>1</sup> AIR 2001 SC 3218

<sup>2</sup> 2009 ACJ 1298

deducted towards personal expenses, which comes to Rs.5,50,000/- (3600 x  $\frac{3}{4}$  = 2700 x 12 x 17). Apart from that the claimants are entitled to Rs.10,000/- towards funeral expenses, Rs.25,000/- towards loss of consortium and Rs.20,000/- towards care and guidance to the two minor children, in all it comes to Rs.6,05,000/- and what the Tribunal awarded of Rs.5,96,600/- is no way excessive.

4. Accordingly, the appeal is dismissed.

5. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

30<sup>th</sup> November 2016.

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**Dr. B. SIVA SANKARA RAO, J**

