

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

MACMA No.2925 OF 2005

JUDGMENT:

The appellants aggrieved by the award dated 25.11.2003 of the tribunal in O.P.No.300 of 1997 under Section 166 of the M.V.Act, on the file of the learned Chairman, Motor Accidents Claims Tribunal—cum-I Addl.District Judge, Ongole (*for short, 'Tribunal'*), for the claim out of Rs.2,00,000/-(Rupees two lakhs only) since granted Rs.68,200/-(Rupees sixty eight thousand and two hundred only) with interest at 9%p.a., for the accidental death of Pasupuleti Pichamma, no other than wife of the 1st appellant and mother of the 2nd appellant, against the respondents 1 to 4 who are the respective owners and Insurers of the lorry bearing No.TAV 4239 and jeep bearing No.AP27 T 4865, preferred the present appeal with the contention of the quantum as utterly low and the same may be granted as prayed for.

2. The 1st respondent remained exparte and the other respondents contested and the contention of the 3rd respondent/owner of the jeep is that it is the lorry driver who was at fault and not the driver of his jeep apart from that the jeep is also covered by a policy. The tribunal fixed compensation by holding that there is composite negligence of both the vehicles in equally apportioning the liability of 50% by respective owners.

3. Now it is the contention of the learned counsel for the appellants/claimants that the tribunal ought to have awarded compensation as prayed for, having rightly fixed the composite negligence with equal liability with the owners and Insurers of both the vehicles.

4. Whereas, it is the contention of the learned counsel for the respondents 2 and 4, same Insurance Company, though of different branches that the award of the tribunal holds good and for this Court while sitting in appeal there is nothing to interfere, more particularly, from the deceased was claimed as Anganwadi worker earning only Rs.450/- p.m. as on the date of accident i.e. 10.08.1996.

5. Heard and perused the material on record.

6. Now coming to the quantum of compensation, as per the

expression of the Apex Court in **Latha Wadhwa vs. State of Bihar**^[1] even for domestic contribution of a house wife, in the absence of proof of earnings, a minimum of Rs.3000/- p.m. taken. No doubt, the accident is nearly more than 5 years prior to the expression, once such is the case, apart from that, as held in **Latha Wadhwa** supra, the 1st claimant also entitles to Rs.1,00,000/- towards loss of consortium, Rs.25,000/- towards funeral expenses and Rs.10,000/- towards loss of estate even as per the three Judge Bench expression in **Rajesh Vs. Rajbir Singh**^[2]. In view of the above calculation, the claim of Rs.2,00,000/- is no way unjust. Hence, it requires to enhance the compensation of Rs. 68,200/- to Rs.2,00,000/- as prayed for by reducing the rate of interest from 9%p.a. to 7.5%p.a.

7. Accordingly and in the result, the appeal is partly allowed by enhancing the compensation of Rs. 68,200/- granted by the tribunal to Rs.2,00,000/- as prayed for, but by reducing rate of interest from 9%p.a. to 7.5% p.a. The respondents are directed to deposit the amount within one month from today, failing which the claimants can execute and recover. On deposit or execution, the claimants are entitled to withdraw the said amount. There is no order as to costs in the appeal. Consequently, pending miscellaneous petitions, if any, in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:08.07.2016

Vvr

^[1] (2001) 8 SCC 197=AIR 2001 (SC) 3218

^[2] (2013) ACJ 1403=(2013) 9 SCC 54,