

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CMA No.2364 OF 2004

JUDGMENT:

The claimants, no other than parents and elder brother of deceased by name G.Yadagiri, aged about 25 years as per Ex.A.5 post mortem report maintained claim u/s. 166 of the Motor Vehicle Act,1988 (*for short, 'the Act'*), in O.P.No.1187 of 2002 on the file of the learned Chairman, Motor Accidents Claims Tribunal–cum-IV Addl.Chief Judge, City Civil Court, Hyderabad (*for short, 'Tribunal'*), against the owner and Insurer of lorry (crime vehicle) bearing No.AP 28 T 6467 for the claim of Rs.4,00,000/-(Rupees four lakhs only), for the death of the deceased while walking caused by rash and negligent driving of its driver by dashing against him, preferred the present appeal aggrieved by the award of the tribunal dated 09.04.2004 for granting compensation of Rs.1,98,200/-with interest at 9%p.a. with joint liability, as utterly low and sought for compensation as prayed for.

2. Heard the learned counsel for the claimants and the learned counsel for the 2nd respondent-Insurer from the 1st respondent-owner of the crime lorry who remained *exparte* before the tribunal, also not turned up is no way fatal, and perused the material on record.

3. A perusal of the award shows the tribunal, with reference to the evidence of P.W.1 and eye witness P.W.2, Exs.A.1 First Information Report, Ex.A.2 chargesheet and A.5 postmortem report, held that the accident was result of rash and negligent driving of the driver of the lorry. The tribunal taken the age of the mother, 45 years on the principle that the dependency of the claimants on the deceased is during their lifetime only and not to take the age of the deceased for not the dependents till end of his life otherwise which is principle to say

the dependency to be taken into consideration is from the age of the deceased when the dependents are younger to him and otherwise from the age of claimants when the deceased was younger to them. There is no much dispute on this to interfere.

4. Now coming to the earnings of the deceased, it is proved by showing from Ex.A.6 salary certificate of the deceased that he was earning Rs.2315.59paise as a contract labourer to say Rs.2316/- by the date of accident 27.04.2002. As per **Sarla Verma v. Delhi Transport Corporation** ^[1], though the multiplier 15 is correct, the prospective earnings of the deceased from the mother's age even taken with 30% which comes to Rs.695/-+ Rs.2316/-=Rs.3010/- rounded to Rs.3,000/- if half deducted towards personal expenses as deceased was a bachelor i.e. Rs.1500/- p.m.x15(multiplier)x12=Rs.2,70,000/-+Rs.10,000/- towards loss of estate+Rs.25,000/-towards funeral expenses, it comes to Rs.3,05,000/- (Rs.three lakhs five thousand only). When that is so, what the tribunal awarded of Rs.1,98,000/- requires to be enhanced to Rs.3,05,000/- by reducing rate of interest from 9% to 7.5%p.a.

5. In the result, the appeal is allowed in part by enhancing the compensation awarded by the tribunal of Rs.1,98,000/-(Rupees one lakh ninety eight thousand only) to Rs.3,05,000/-(Rupees three lakhs five thousand only) with interest at 7.5% p.a. by reducing from 9% p.a. from the date of petition till date of realization. Respondents are directed to deposit said amount with interest within one month from today, failing which the claimants can execute and recover. On such deposit or execution and recovery, the claimants are permitted to withdraw the same. There is no order as to costs in the appeal. Consequently, miscellaneous petitions, if any pending in this appeal,

shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:24.06.2016
Vvr

[\[1\]](#) 2009 ACJ 1298