

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

MACMA No.731 OF 2008

JUDGMENT:

The claimants 4 in number no other than the wife, minor children and parents of the deceased Gangireddy Srinatha Reddy aged about 38 years as per Ex.A.7 pan card saying date of birth of 10.08.1965 maintained the claim under Section 166 of the Motor Vehicle Act, 1988 (*for short, 'the Act'*) in O.P.No.277 of 2003 on the file of the learned Chairman of the Motor Accidents Claims Tribunal-cum-I Addl. District Judge, Anantapur (*for short, 'Tribunal'*), for compensation of Rs.10,00,000/- against the owner and Insurer of the tipper bearing No.AP02 U 2986 and so called driver of the tipper bearing No.AP 02 U 2986 and from the respondents 1,3 and 4 remained *ex parte* but for contested by the 2nd respondent-Insurer and from the evidence on record, the tribunal awarded compensation of Rs.6,00,000/- with interest at 7.5%p.a. by fixing liability on respondents 1,3 and 4 vide award dated 12.12.2007. Impugning the said quantum as utterly low the claimants maintained the appeal with the contentions in the grounds of appeal that the tribunal should have taken correct multiplier and should have taken 1/4th deduction in stead of 1/3rd towards personal expenses and hence to allow the appeal by awarding just compensation.

2. Whereas, it is the contention of learned counsel for the 2nd respondent insurer to the appeal that the award of the tribunal holds good for this Court while sitting in appeal there is nothing to interfere, hence, to dismiss the appeal.

3. Heard and perused the material on record.

4. The fact that the accident was the result of rash and negligent driving of the driver of the tipper of the 1st respondent insured with the 2nd respondent as proved from the award of the tribunal not in challenge and made final. It is now the quantum of compensation awarded is whether utterly low or not concerned, the deceased was aged about 38 years though post mortem report shows about 35 years. The multiplier applicable is 15, as per the expression of the Apex Court in *Sarla Varma v. Delhi Transport Corporation*¹ and for the claimants are 4 in number as dependants, it is $1/4^{\text{th}}$ to be deducted. As the deceased worked as medical representative from Ex.A.8 employee certificate dated 29.08.2002 with one year service nearly by the date of accident 19.08.2003 showing only consolidated pay of 2,800/- p.m. with other allowances in all coming to Rs.5,400/- as gross salary, even taken Rs.4,600/- per month after excluding the allowances, by adding prospective earnings of 50% then it comes to Rs.6,900/- $\times \frac{3}{4} \times 12 \times 15$ (multiplier) = Rs.9,31,500/- besides loss of consortium to the 1st claimant of Rs.50,000/-, Rs.25,000/- towards funeral expenses, Rs.10,000/- towards loss of estate and Rs.13,500/- towards care and guidance to the 2nd claimant minor children is awarded in all it comes to Rs.10,30,000/- is just compensation to enhance from subject to payment of deficit Court Fee under Rule 475 of the AP Motor Vehicle Rules.

5. Accordingly and in the result, the appeal is allowed by enhancing the compensation of Rs.6,00,000/- awarded by the tribunal to Rs.10,30,000/- subject to payment of deficit Court Fee under Rule 475

¹ 2009 ACJ 1298

of the AP Motor Vehicle Rules, otherwise they are not entitled to withdraw, however confirming the rate of interest at 7.5%p.a. from the date of petition till realization. In other respects, the award of the tribunal holds good. No costs. Consequently, pending miscellaneous petitions, if any, in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 22.09.2016
Vvr

