

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A.No.4733 of 2008

JUDGMENT:

The appellants are the claimants. The injured 1st claimant of the motor accident dated 06.01.2004, while he was proceeding on his cycle due to the rash and negligent driving of the motor cycle bearing No.AP 36 H 6340 of the 1st respondent insured with the 2nd respondent, he sustained injuries and was succumbed while undergoing treatment within two months i.e., on 03.03.2004 due to the injuries sustained including to the head and spine and the claimants 2 to 6 no other than wife, major unmarried daughter and major son and parents continued the claim by impleading as legal representatives under Section 166 of the Motor Vehicles Act of the claim for Rs.5,50,000/- and it is after contest from the owner remained ex parte by the insurer, the tribunal awarded compensation of Rs.3,24,584/- with interest at 7.5%p.a. It is the same now in dispute impugning the quantum as utterly low maintained the appeal.

2. The learned counsel for the appellants/ claimants reiterated the same stating that the tribunal ought to have been awarded the just compensation, which could be even more than what was claimed for which they are prepared to

pay the deficit court fee under Rule 475 of the A.P.Motor Vehicles Rules.

3. Whereas, it is the submission of the learned counsel for the insurer/ 2nd respondent that the award of the tribunal holds good and for this Court while sitting in appeal there is nothing to interfere, the accident was the result of the negligence of the injured since died and only compensation to be awarded is for the injuries and not even for the death.

4. Heard and perused the material on record.

5. The evidence on record shows the death is outcome from the injuries sustained in the accident and not otherwise to say compensation to be claimed is only for the injuries. Out of salary showing gross salary of Rs.6,304/- including Festival Advance, Special Allowance, Profession Tax to be deducted even taken there from as claimed by the claimants at Rs.5,000/-, atleast with 15% increase, it comes to Rs.5750/- and out of the same 1/4th is deducted towards personal expenses of the deceased (as there are four dependants and major son not dependent), it comes to Rs.4,312/- and the multiplier applicable is '11' as per Sarla Verma v. Delhi Transport Corporation¹ from the age of the deceased as on the date of accident was about 51 years. If the same is calculated, it comes to Rs.5,69,250/-

¹ 2009 ACJ 1298

(Rs.4312/- x 12 x 11). Apart from the same, Rs.85,000/- is awarded towards loss of consortium, funeral expenses and loss of estate. Thus, in total, the petitioners are entitled to the just compensation of Rs.6,54,250/-, which is rounded to Rs.6,54,000/-, subject to payment of deficit court fee.

6. Accordingly and in the result, the appeal is allowed by enhancing the compensation from Rs.3,24,584/- to Rs.6,54,000/- with interest at 7.5% p.a. from the date of petition till realization. The claimants/ appellants are not entitled to execute decree without payment of deficit court fee. There is no order as to costs.

7. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.



Dr. B. SIVA SANKARA RAO, J

Date:17.09.2016
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