

ORDER:

The claimants in O.P.No.543 of 2005 on the file of Chairman, Motor Vehicle Accidents Claims Tribunal-cum-V Additional District Judge, Karimnagar, made the claim for Rs.4 lakhs since awarded by the tribunal of Rs.1,39,500/- with interest at 6% p.a. vide award dated 30.05.2006 against the owner and insurer of the lorry bearing No.AP 29T 4711, impugning the quantum as utter low, maintained the present appeal with the contentions that the tribunal ought to have adopted the correct multiplier by taking the proper estimation of the earnings of the deceased instead of Rs.15,000/- p.a. of the accident dated 06.02.2005 despite evidence on record saying the deceased was a toddy tapper and agriculturist, other conventional sums also to be awarded and rate of interest at 6% p.a. is also unreasonable. Thereby sought for allowing the claim supra.

2. The learned counsel for the appellants reiterated the same.

3. The 1st respondent-owner of the vehicle remained exparte before the tribunal was not served duly. However, the appeal is not pressed against him by endorsement. Hence, the same is recorded by following the expression in ***M.Chakradhar Rao v. Y.Babu Rao***^[1] of the appeal is maintainable. The 2nd respondent-insurer having been served failed to attend and taken as heard. Perused the material on record.

4. The deceased was aged about 45 years. The multiplier that is taken by the tribunal at '13' even correct as per the expression of the Apex Court in ***Sarla Verma v Delhi Transport Corporation***^[2] and so far as avocation of the deceased and earnings, there is no proof or basis much less as agriculturist or paddy topper getting income of Rs.8,000/- p.m. However, what the tribunal taken at Rs.15,000/- p.a. is utterly low, more particularly, from the expression of the Apex Court in ***Lata Wadhwa v. State of Bihar***^[3], even there is no proof of income and earnings, it can be reasonably estimated at Rs.3,000/- per month and after that expression by the date of accident, there is a four years gap thereby Rs.3,400/- p.m. is the just compensation that to be taken as earnings of the deceased and the claimants though seven in number. as per ***Sarla Verma (supra)***, where the claimants are more than 3 and upto 6, 1/4th and above 6, 1/6th has to be deducted towards personal expenses but not 1/3rd. Here, among 7 claimants, there are two major sons who

are not dependants practically but for remaining 5,if 1/4th is deducted towards personal expenses out of estimated earnings of the deceased, it comes to Rs.2550/- p.m. x 12 x 13 = Rs.3,97,800/-. Apart from it, the 1st claimant is entitled to Rs.50,000/- towards loss of consortium, Rs.25,000/- towards funeral expenses, Rs.20,000/- towards care and guidance for the minor children and Rs.10,000/- towards loss of estate. In total it comes to Rs.5,02,800/- rounded to Rs.5,03,000/-. Though the claimants claimed Rs.4 lakhs, they are entitled to Rs.5,03,000/-, subject to payment of deficit court fee.

5. Accordingly and in the result, the appeal is allowed by enhancing the compensation from Rs.1,39,500/- to Rs.5,03,000/- by enhancing the rate of interest at 7.5% p.a. from today till realization and retaining the rate of interest at 6% p.a. from the date of petition till today. The claimants/appellants are not entitled to execute decree without payment of deficit court fee. There is no order as to costs.

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

Dr. B.SIVA SANKARA RAO, J

Date:09-08-2016
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[\[1\]](#) 2001 (1) ALT 495 (DB)
[\[2\]](#) 2009 ACJ 1298.
[\[3\]](#) AIR 2001 (SC) 3218