HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A.No.239 of 2010

JUDGMENT:

The claimants, no other than wife and major son of the deceased-A.Kakaiah, aged 62 years as per the finding of the tribunal also with reference to the oral evidence and Post mortem report-Ex.A4, in the claim maintained under Section 166 of the Motor Vehicles Act, for a compensation of Rs.4,00,000/- against the owner and insurer of lorry bearing No.MH 26 7519 of the accident dated 25.08.2005, in saying while the deceased was proceeding by foot, the lorry dashed at the by-pass road of Shakkarnagar, near Nizambad and the tribunal having held that the accident was the result of rash and negligent driving of the driver of the lorry of the 1st respondent insured with the 2nd respondent fixed joint liability arrived in awarding compensation of Rs.1,50,000/- with interest at 7.5% p.a., vide award dated 04.04.2008 in O.P.No.1140 of 2005 by taking the earnings of the deceased at Rs.3,000/- p.m. and multiplier '5' and it is impugning the said quantum as utterly low, maintained the appeal.

2. Learned counsel for the appellants/claimants reiterated the contentions in the grounds of appeal vis-à-vis oral submissions that the tribunal ought to have awarded the compensation by taking the multiplier '7', as per the expression of Sarla Verma v. Delhi Transport Corporation[1] and other conventional sums ought to have awarded and hence to award just compensation by enhancing the same.

3. Whereas, it is the submission of the learned counsel for the 2nd respondent that the award of the tribunal holds good and for this Court while sitting in appeal there is nothing to interfere but for no cross objections to enhance and to dismiss the appeal.

[1] 2009 ACJ 1298

4. Heard and perused the material on record.

5. The multiplier applicable as per the age of the deceased is '7'. The claim is under Section 166 of the Act, even taken the earnings of the deceased at Rs.3,000/- p.m., and as the accident was in 2005, after 4 years of the expression in Lata Wadhwa v. State of Bihar[2], prospective earnings can be taken Rs.3,300/- p.m.. If 1/3rd is deducted towards personal expenses of the deceased, it comes to Rs.2,200/- p.m. and Rs.26,400/- p.a. and the same is multiplied with the multiplier '7' (applicable from the age of the deceased) it comes to Rs.1,84,800/-. Apart from the same, the claimants are entitled to Rs.50,000/- towards loss of consortium, Rs.10,000/- towards loss of estate and Rs.25,000/- towards funeral expenses. Thus, in total Rs.2,69,800/- is the just compensation to enhance from Rs.1,50,000/- to Rs.2,69,800/-.

6. Accordingly and in the result, the appeal is partly allowed by enhancing the compensation from Rs.1,50,000/- to Rs.2,69,800/-with interest at 7.5% p.a. from the date of petition till realization. In other respects, the award of the tribunal holds good. There is no order as to costs.

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

Dr. B. SIVA SANKARA RAO, J

Date:21.10.2016
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[2] AIR 2001 (SC) 3218