

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

M.A.C.M.A.No.4403 of 2008

JUDGMENT:

The insurer 2nd respondent among the 2 respondents including the owner of the motor bike bearing No.AP-16-AL-2468, maintained the appeal impugning the award of the Tribunal dated 17.08.2007 in O.P.No.118 of 2005 maintained by the injured for a compensation of Rs.2,50,000/- under Section 163-A of the Motor Vehicles Act and from the evidence on record of the injured, the Dr.V.V.Narayana-PW.2, Exs.A1 to 8 and X1, the wound certificate- Ex.A3 shows aged 60 years, whereas Ex.X1 case sheet deposed 45 years, from the Tribunal taken the age between 50-55 years in adopting multiplier '11' and from the disability deposed by the Doctor as 50% permanent that effects caste profession and loss of earning capacity, the Tribunal taken 100% disability. The 2nd aspect is the quantum of compensation by taking the age of 50-55 instead of 60 years and instead of Doctor deposed 50% as if 100% assailed in the appeal.

Whereas it is the contention of the learned counsel for the claimant since died represented by legal representatives brought on record for the owner remained exparte before the Tribunal endorsed as not necessary party to the appeal, that resorted however the prospective earnings also could not have been taken the injured being weaver, skilled worker even taken the age of the deceased up to 60 years have adopted multiplier thereunder once it effects the total avocation from the evidence on record 100% disability taken is justified and sought for dismissal of the appeal.

Heard and perused the material on record.

The accident was dated 02.12.2004 as per **Latha Wadhwa vs. State of Bihar**¹ in the absence of earnings minimum of Rs.3,000/- per month taken even under Section 163-A of the Motor Vehicles Act, it is observed that Rs.15,000/- annual income to be read as Rs.30,000/- per annum if same is taken even from the effect of the avocation what Doctor deposed of 50% to be raised to 60% and the age taken up to 60 years even the multiplier applicable 8 under the Act it comes to Rs.30,000/- x60/100x8=Rs.1,44,000/- besides medical expenses, transport charges and loss of earnings even taken, Rs.2,00,000/- is the just compensation.

Accordingly and in the result, the appeal is allowed in part by reducing the compensation from Rs.2,20,000/- to Rs.2,00,000/-. In other aspects the award of the Tribunal holds good.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 01.09.2016
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¹ (2001) 8 SCC 197=AIR 2001 (SC) 3218