

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

C.M.A. No.579 of 2004

JUDGMENT :

The injured-claimant, aged about 15 years as on the date of accident i.e., on 16.08.1996, maintained the claim under Section 166 of the Motor Vehicles Act, for Rs.3,00,000/- against the owners and insurers of the two vehicles one Jeep bearing No.KA 13 M 1288 of the 1st respondent, insured with the 2nd respondent and the lorry bearing No.AHH 3800 of the 3rd respondent insured with the 4th respondent.

2) The averments show that the petitioner along with parents and other relatives engaged the Jeep of the 1st respondent and when the same was reached the place of accident, due to the rash and negligent driving of two drivers respondents 1 and 3, the accident occurred and one of the persons died, claim covered by O.P. No.726 of 1996, where liability of the Jeep was fixed at 46% and that of the lorry at 50% contribution to the accident and the crime registered is against the driver of the lorry of the 3rd respondent.

3) It is there from the Tribunal with reference to the evidence on record of P.W-1, the injured and P.W-2, the doctor, Exs.A-1 to A-14, particularly with reference to F.I.R

and the order copy of another O.P referred supra, came to the conclusion of the Jeep driver, owner and insurer are liable to an extent of 40% and that of the lorry at 60%. Coming to the quantum it was observed that Rs.15,000/- per annum of any injured of 15 years can be taken and P.W-2 deposed, and certified by way of Ex.A-6, that 30% permanent disability of 20% by calculated the same, arrived the amount of Rs.45,000/- together with other sum of Rs.35,000/- including medical expenses of Rs.15,000/-, pain and sufferance to the injuries, transport charges etc.

4) It is impugning the said quantum awarded by the Tribunal with interest at 9% p.a. contending as utterly low the present appeal is maintained. Whereas, it is the contention of the learned counsel for the two insurers, 2nd respondent-New India Assurance Company Limited and the 4th respondent-National Insurance Company Limited that the award of the Tribunal holds good, for this Court while sitting in appeal there is nothing to interfere.

5) Heard and perused the material on record. Even in the case of non-earning member, domestic contribution of a housewife can be taken at Rs.30,000/- per annum vide ***Kishan Gopal V. Lala***^[1] and there from by taken with multiplier '15' for the 20% disability, it comes to Rs.90,000/- which includes for the marriage prospects, loss of earnings, pain and sufferance. To the fracture and

other injuries, attendant charges, transport charges, extra nourishment even taken as Rs.40,000/-, it comes to Rs.1,30,000/-. However, rate of interest shall be reduced from 9% p.a. to 7.5% p.a.

6) In the result, the appeal is partly allowed by enhancing the compensation from Rs.80,000/- to Rs.1,30,000/-, however, by reducing the rate of interest from 9% p.a. to 7.5% p.a. Rest of the terms of the award of the Tribunal holds good. No order as to costs. Miscellaneous petitions, if any pending, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

29.08.2016
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[\[1\]](#) (2014)1 SCC 244