

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A. No.3811 of 2009

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JUDGMENT:

The award passed was on 24.07.2008 in O.P. No.1072 of 2005 on the file of Chairman, Motor Accidents Claims Tribunal – cum – I Additional District Judge, At Nalgonda in favour of the claimants 8 in number, who are all dependents on deceased Dasoju Srinivasa Chary viz., his wife, two major children, 4 minor children and mother in the claim maintained under Section 166 M.V.Act for Rs.10 lakhs, against two respondents i.e., owner and insurer of the lorry bearing No.AP 16 X 4676 and the Tribunal awarded Rs.6,73,000/- with interest at 7.5% per annum with joint liability from Ex.B1—policy covered the risk and from the manner of accident was due to rash and negligent driving of said lorry driver, who dashed the bike of the deceased while proceeding. The appeal is maintained by the insurer (respondent No.2) impugning the quantum of compensation awarded by the Tribunal as highly excessive and untenable.

2) Heard learned counsel for appellant/2nd respondent—insurer vis-à-vis learned counsel for claimants. The 8th respondent herein and 1st respondent to the claim petition, who is owner of the lorry, remained exparte before the Tribunal and even served failed to attend, hence taken as heard. Perused the material on record.

3) The avocation of the deceased is gold smith is not in dispute. As per the expressions of Apex Court in **Sarla Verma vs Delhi Transport Corporation**^[1] and **Rajesh vs Rajbir Singh**^[2], even self avocation earner like a gold smith is also entitled to prospective increase in earnings and thus from the date of accident, which was occurred in August, 2015, though there is no proof of earnings,

minimum to be taken at Rs.3000/- per month as per ***Latha Wadhwa vs State of Bihar***^[3] with proportionate increase, from the age of the deceased 39 years, even not believing the so-called letter issued by District Swarankara Sangam, Nalgonda under Ex.A10 and from the claim under Section 166 of M.V Act and the personal expenses deduction is only 1/5th for the dependents are more than six in number and even there from taken the loss of earning capacity with loss of consortium, funeral expenses, loss of estate and care and guidance to the four minor children among the claimants, what the Tribunal awarded is no way excessive but for no cross objections to enhance the compensation. Thus, there is nothing to reduce the quantum.

4) Accordingly and in the result, the appeal is dismissed. No order as to costs.

5) Miscellaneous petitions, if any pending in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Dt.06.01.2016
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- [\[1\]](#) 2009 ACJ 1298
 - [\[2\]](#) 2013 ACJ 1403
 - [\[3\]](#) AIR 2001 SC 3218