HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A No.657 OF 2010

JUDGMENT:

The claimants are four in number, none other than wife and three major sons of the deceased Govinda Rajulu, aged about 49 years as per Ex.A4—post mortem report, maintained M.V.O.P. No.274 of 2008 on the file of Motor Accidents Claims Tribunal–cum–District Judge, Guntur (for short 'the Tribunal') under Sections 163-A and 166 of Motor Vehicles Act, 1988 (for short 'M.V Act') for a compensation of Rs.10,00,000/- against owner and insurer of lorry bearing No.AP 26 U 7249, for the accidental death of deceased Govinda Rajulu on 15.10.2003. From the contest by 2nd respondent—insurer for 1st respondent—owner remained *ex parte*, the Tribunal awarded compensation of Rs.4,27,000/- with interest at 7% per annum on 01.04.2009 fixing joint liability against respondents 1 and 2. Impugning the quantum of compensation as utterly low, the claimants maintained the present appeal.

2) Heard learned counsel for the appellants-claimants and learned standing counsel for 2nd respondent—insurer. Perused the material on record.

3) Though the deceased was claimed as RMP doctor, there is nothing to show that he was a RMP Doctor and registered with District Medical Officer much less member of association much less paid any professional tax. However, he has shown the income by contributing to Sriram Chits Limited covered by Ex.A6—Pass books of Sriram Chits Limited, Exs.A7 and A8—LIC bonds for children respectively and Ex.A9—properties registered in his name, which he claimed to have purchased with his income. There is nothing to assess or estimate therefrom even as to what is his regular income as no accounts are even filed and even he is not an income tax assessee.

4) As per the expression of the Apex Court in ***Lata Wadhwa vs State of Bihar***[1] in the absence of proof of earnings, the Court has to estimate the minimum earnings at Rs.3,000/- per month, as the accident occurred on 15.10.2003 which is nearly above two years after this expression, even taken the income of the deceased at Rs.3,300/- per month; for the persons above 50 years, the prospective increase can be taken upto 15% but as the age of the deceased is 49 years, it is just to take 20% increase, thereby it comes to Rs.3,960/- (Rs.3,300 X 20% + Rs.3,300/-) and if 1/3rd deducted towards personal expenses from it, it comes to Rs.2,640/-. The loss of dependency comes to Rs.4,11,840/- (Rs.2640/- X 12 X 13). Apart from it, the petitioners are also entitled to Rs.50,000/- towards loss of consortium, Rs.25,000/- towards funeral expenses, Rs.10,000/- towards loss of estate, in all it comes to Rs.4,96,840/- rounded to Rs.4,97,000/-. Thus, what the Tribunal awarded of Rs.4,27,000/- requires enhancement to Rs.4,97,000/- so also the rate of interest from 7% per annum to 7.5% per annum from the date of petition till realisation.

5) Accordingly and in the result of, appeal is partly allowed enhancing the compensation and rate of interest from Rs.4,27,000/- (Rupees four lakhs twenty seven thousand only) to Rs.4,97,000/- (Rupees four lakhs ninety seven thousand only) and from 7% per annum to 7.5% per annum from the date of petition till realisation. No order as to costs.

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

Dr. B. SIVA SANKARA RAO, J

Dt.08.12.2016
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[1] AIR 2001 SC 3218