

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

MACMA No.2522 OF 2007

JUDGMENT:

The claimants 1 and 2 being wife and minor child of the deceased by name Ramanjulu, in M.V.O.P.No.67 of 2004 maintained for a compensation of Rs.17,00,000/- under Section166 of the Motor Vehicle Act,1988 (*for short, 'the Act'*) on the file of the learned Chairman of the Motor Accidents Claims Tribunal-cum-IV Additional District Judge, Kadapa (*for short, 'Tribunal'*), with the array of the parents of the deceased as respondents 3 and 4 and owner and Insurer of the Tractor and trailer bearing No.AP04 C 7750 and 7751 as respondents 1 and 2 for the death in the motor accident, on contest by the owner and Insurer respectively as R.1 and R.2, held the accident was the result of the rash and negligent driving of the driver of the tractor and trailer while reversing the vehicle and coming to the compensation by taking the earnings of the deceased at Rs.6817/- after 1/3rd deduction from adopted multiplier 16 from his age about 39 years awarded of Rs.8,82,140/- and with interest at 7.5%p.a. in favour of the claimants and respondents 3 and 4, impugning the said quantum as utterly low maintained the appeal, with the contentions in the grounds of appeal are that the tribunal gravely erred in not taking into consideration the salary properly of the deceased by adopting the correct multiplier to arrive correct multiplicand, hence the appeal to be allowed as prayed for.

2. The Insurer-2nd respondent in fact maintained separate appeal in M.A.C.M.A. No.2571 of 2007 impugning the compensation as excessive and also attributing contributory negligence and this Court having held the compensation arrived no way requires interference vide award dated

31.08.2016 dismissed the appeal. At that time, pendency of the appeal is not within the notice of the Court.

3. Heard and perused the material on record.

4. A perusal of the evidence on record shows that the accident took place while reversing the tractor and trailer. The deceased at the time of accident while reversing the tractor and trailer was there sat on the motor cycle from which the accident occurred. From the facts supra there is also contribution of the deceased at least of 10% without further probing of the factual matrix from the very claim petition averments and if so taken even there is main negligence on the part of the driver of the tractor and trailer of 90% so far as the earnings of the deceased, his gross salary of Rs.7832/ and net salary of Rs.6817/- with reference to Exs.A.12 and 13 (salary certificate and Service Register) and X.1 and 2 from his age 39 years, the multiplier applicable is 15 and even taken the prospective earnings from his age 30%, then it comes to Rs.6817/- $\times 30/100 = \text{Rs.}2045/- + 6817/- = \text{Rs.}8,862/-$ even can be taken at least without consideration of the income tax deduction as it is taken 30% increase from the net salary and 90% therein comes to Rs.7975/- $\times 3/4^{\text{th}}$ as there are 4 claimants, if $1/4^{\text{th}}$ deducted towards personal expenses, it comes to Rs.5982/- $\times 12 \times 15 = \text{Rs.}10,76,745/- + \text{Rs.}50,000/-$ towards loss of consortium + Rs.25,000/- towards funeral expenses, + Rs.10,000/- towards loss of estate, Rs.10,000/- towards care and guidance to the minor child, which in all comes to Rs.11,71,745/- rounded to Rs.11,72,000/- is the just compensation to be awarded with interest at 7.5%p.a.

5. Accordingly and in the result, the appeal is allowed in part by enhancing the compensation of Rs.8,82,140/- awarded by the tribunal to Rs.11,72,000/- by confirming the rate of interest at 7.5%p.a. from the

date of petition till realization. In other respects, the award of the tribunal holds good. No costs. Consequently, pending miscellaneous petitions, if any, in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 28.09.2016

Vvr

