

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A. M.P. No.1105 OF 2011

IN/ AND

M.A.C.M.A. No.799 OF 2016

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JUDGMENT:

The claimants, who are no other than wife, daughter and son of deceased Parvatham, aged 36 years as per Ex.A3—post mortem report, filed the appeal having been aggrieved by the order/ award passed on 04.01.2010 in M.V.O.P. No.642 of 2006 on the file of Motor Vehicles Accidents Claims Tribunal – cum- I Additional District and Sessions Judge, Ranga Reddy District, at L.B Nagar (for short ‘the Tribunal’) under Section 166 of the Motor Vehicle Act, 1988 (for short ‘M.V. Act’) for compensation of Rs.10,00,000/-, for the death of deceased in a motor accident dated 06.05.2006 and the Tribunal awarded Rs.4,71,000/- with interest at 7.5% per annum fixing joint liability against the respondents 1 and 2 viz., owner and insurer of the lorry bearing No.AP 9T 3783.

2) The M.A.C.M.A. M.P. No.1105 of 2011 is filed to condone the delay of 345 days in filing the appeal, is condoned subject to condition that the claimants are not entitled to interest on the enhanced amount but from today.

3) Heard learned counsel for appellants/ claimants and also learned standing counsel for Insurer. The respondent No.1—owner of the vehicle remained *exparte* before the Tribunal and even impleaded in this appeal dismissed for default is no way fatal to the maintainability of the appeal vide ***Meka Charadhara Rao vs Yelubandi Babu Rao***^[1] and the same is recorded. Heard and perused the material on record.

4) The Tribunal rightly held that the accident was the result of rash and negligent driving of the driver—1st respondent of the crime lorry bearing No.AP 9T 3783 insured with 2nd respondent covered by Ex.B1—policy.

5) Now coming to the quantum of compensation, the age of the

deceased about 36 years as per Ex.A3—post-mortem report, the multiplier applicable is ‘15’ as per **Sarla Verma vs Delhi Transport Corporation**^[2] but not ‘16’; coming to the earnings, there is no proof filed by the claimants before the Tribunal, thereby the Tribunal from the evidence on record much less to say he was earning Rs.6,000/- per month and even as per **Latha Wadhwa vs State of Bihar**^[3] in the absence of proof of earnings, minimum Rs.3,000/- is to be taken and the accident occurred on 06.05.2006, nearly four years after the occurrence with prospective increase Rs.3,400/- is to be taken and as the claimants are three in number 1/3rd to be deducted towards personal expenses, it comes to Rs.4,08,060/- (Rs.2267/- X 12 X 15). Apart from it, Rs.1,00,000/- towards loss of consortium, Rs.25,000/- towards funeral expenses, Rs.10,000/- towards loss of estate, Rs.10,000/- each to the minor children each towards care and guidance as per the three judge bench expression of the Apex Court in **Rajesh vs Rajbir Singh**^[4], in all it comes to Rs.5,63,060/-, rounded to Rs.5,64,000/-.

6) Accordingly and in the result, the appeal is partly allowed while enhancing the compensation from Rs.4,71,000/- (Rupees four lakhs seventy one thousand only) to Rs.5,64,000/- (Rupees five lakhs sixty four thousand only). However, the claimants are not entitled to interest on the enhanced amount but from today. In other respects the award of the Tribunal holds good.

7) Consequently, miscellaneous petitions, if any pending in this Appeal shall stand closed.

Dr. B. SIVA SANKARA RAO, J

09.02.2016
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HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

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[\[1\]](#) 2001 (1) ALT 495 DB

[\[2\]](#) 2009 ACJ 1298

[\[3\]](#) AIR 2001 SC 3218

[\[4\]](#) 2013 ACJ 1403