

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

MACMA No.116 of 2009

ORDER :

Heard the learned counsel for the 2nd respondent among two respondents including owner of the lorry bearing No.AP 29 U 6369, maintained by the claimants three in number, no other than wife and parents of the deceased, who is aged 28 years of the motor accident dated 28.04.2004, the Tribunal from the contest of the 2nd respondent of the 2nd respondent from the owner, remained exparte, after holding that the accident was the result of the rash and negligent driving of the driver of the crime lorry of the 1st respondent supra, awarded the quantum of compensation Rs.4,54,000/- with interest at 7.5% p.a.

2) Now, the appeal is maintained impugning the quantum is excessive, so also the finding of the Tribunal of the accident was the rash and negligent driving of the 1st respondent as untenable. The learned counsel for the insurer reiterated the same.

3) Whereas, it is the contention of the learned counsels for the claimants/respondents from the 4th respondent owner of the vehicle failed to attend, that the award of the Tribunal holds good but for no cross-objections, the compensation is utterly low, hence to

dismiss the appeal. Perused the material on record.

4) The accident took place while the deceased was proceeding by foot and crossing the road. No doubt, while crossing the road, the deceased was supposed to be cautious. However, the fact remains that finder of last opportunity with the driver of the crime vehicle and per se it shows even taken 10% contribution by the deceased and to held 90% liability of the owner and insurer of the vehicle, the respondents to the claim petition, what the Tribunal awarded no way excessive.

5) In the result, the appeal is disposed of holding that there is a contribution of the deceased at 10% and the respondents 1 and 2 of the claim petition are liable for 90% contribution. Further, coming to the quantum, the same is no way excessive. Rest of the terms of the award of the Tribunal holds good. There shall be no order as to costs.

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

Dr. B. SIVA SANKARA RAO, J

11.02.2016
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