

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

M.A.C.M.A.No.641 of 2008

JUDGMENT :

The appellants are the claimants in O.P.No.1232 of 2005 on the file of Motor Accidents Claims Tribunal-cum-II Additional Chief Judge, City Civil Court, Hyderabad (for short, 'the Tribunal'), maintained under Section 166 of M.V.Act for a compensation of Rs.3,00,000/-, against owner and insurer of lorry bearing No.AP 12 U 4846, who are respondents to the appeal vis-à-vis claim petition so far, for the death of the deceased by name Prabhakar, who was son of the 1st claimant and brother of claimant Nos.2 and 3, aged about 19 years, with the allegation that on 20.03.2005 while the deceased was proceeding on his cycle, due to the rash and negligent driving of the driver of the lorry dashed the deceased and was succumbed thereby while undergoing treatment in Osmania General Hospital within two hours of the accident vide Crime No.46 of 2005 of Choutuppal Police Station. The Tribunal having held the accident was the result of the rash and negligent driving of the driver of the lorry of the 1st respondent, insured with 2nd respondent, awarded the compensation of only Rs.1,52,000/- with interest at 7.5% p.a. on 27.08.2007 and impugning the said compensation as utterly low present appeal is maintained.

2. Heard.

3. Learned counsel for the appellants/claimants vis-à-vis learned counsel for 2nd respondent-insurer for 1st respondent-owner even remained ex prate before the Tribunal stated not necessary party to the appeal, vide **M.Chakradhara Rao v. Y. Babu Rao**¹.

4. Perused the material on record.

5. The age of the mother arrived by the Tribunal from the evidence on record is at 41 years and the earnings of the deceased even taken at Rs.15,000/- per annum, he was shown as fruit vendor-cum-coolie other than the fruit business season, for his dependency and maintaining the claimants, among them 1st claimant is the main dependent of deceased in the case of bachelor as per the other law including from **Sarla Verma vs. Delhi Transport Corporation**², half to be deducted towards personal expenses. The accident was on 20.03.2005 following the expression in **Latha Wadwa and others v. State of Bihar and others**³, even Rs.3,400/- per month is taken, if half deducted Rs.1,700/- per month and the multiplier '14' to be adopted, it comes to Rs.2,85,600 (Rs.1,700 x 12 x 14). Apart from that the claimants are entitled to Rs.10,000/- towards funeral expenses and Rs.25,000/- towards loss of consortium, in all it comes to Rs.3,20,600/- rounded to Rs.3,20,000/-, which is the just compensation. Thereby, the claimants are entitled to Rs.3,20,000/-.

¹ 2001(1) ALT-495(DB)

² 2009 ACJ 1298

³ AIR 2001 SC 3218

6. Accordingly, the appeal is allowed by enhancing the compensation from Rs.1,52,000/- to Rs.3,20,000/-, however, subject to payment of deficit court fee on Rs.20,000/- since the claim is for Rs.3,00,000/-. If the deficit court fee is not paid as per 475 of M.V.Rules before the Tribunal, the claimants cannot be permitted to execute for the enhanced claim amount. Rest of the terms of the award of the Tribunal holds good.

7. Miscellaneous Petitions pending, if any, shall stand closed. No order as to costs.

21st September 2016

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Dr. B. SIVA SANKARA RAO, J

