

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A.No.414 of 2010

JUDGMENT:

The 2nd respondent-insurer among two respondents including owner of the lorry bearing No.AP 31U 2677, impugning the award of the tribunal dated 23.12.2009 in MVOP No.130 of 2008 maintained by the parents of the deceased-G.Nanaji, aged about 25 years, under Section 166 of the Motor Vehicles Act (for short 'the Act'), for a compensation of Rs.4,00,000/-, from the contest by the 2nd respondent and the 1st respondent remained ex parte, from the facts that the deceased was working as lorry cleaner came to his parents village of Thamarada Village of Kirlampudi Mandal from Visakhapatnam and on 01.09.2006 at about 6'o clock boarded lorry to go to Visakhapatnam and because of radiator problem, at about 12 noon near Kanakadurga temple of Pisinikada Village on the way when the lorry was stopped to cool down radiator and the driver of the lorry and cleaner were plying the same by pouring water to the radiator and the deceased and other persons, who got down were watching the same, the crime lorry of the 1st respondent insured with the 2nd respondent, while proceeding in a rash and negligent manner dashed the stationed lorry in the broad daylight and further the deceased was ran over among others sustained injuries and deceased was succumbed in the way to

K.G.H.Hospital, Visakhapatnam on reference by the Government Hospital, Anakapalle vide crime No.119 of 2006 of Kasimkota police station and from the contest of the insurer that the other lorry driver, owner and insurer also necessary parties by negating, as the accident is outcome of sheer negligence of the driver of the 1st respondent lorry, the tribunal fixed compensation of Rs.3,29,000/- with interest at 6%p.a. and same is impugned.

2. The contentions in the grounds of appeal are that Rs.3,000/- p.m. income and the multiplier taken by the tribunal are unsustainable and thereby the quantum is excessive to reduce.

3. Whereas, it is the submission of the learned counsel for the claimants that but for no cross objections the compensation awarded by the tribunal itself utterly low to enhance and the interest is also utterly low to enhance for which no cross objections are necessary and hence to dismiss the appeal.

4. Heard and perused the material on record.

5. Even taken from the claim that the parents are dependents on the deceased during their life time and not for the entire life time of the deceased younger in age, the age of the mother is 40 years shown in the claim petitionn who is PW.1 and taken from her age between 40 to 45 from her deposition, the multiplier applicable is '14' as contended in the grounds of appeal. However, the accident was dated 01.09.2006. In Lata

Wadhwa v. State of Bihar¹, in the absence of proof of earnings, minimum Rs.3,000/- to be taken into consideration and the accident was about five years after the expression, the earnings of the deceased can be taken at Rs.3,500/- p.m. If half of the amount is deducted towards personal expenses of the deceased, as the deceased was bachelor, it comes to Rs.1,750/- p.m. and Rs.21,000/- p.a. and the same is multiplied with the multiplier '14', it comes to Rs.2,94,000/-. Apart from the same, the claimants are entitled to Rs.35,000/- towards loss of estate and funeral expenses. Thus, in total Rs.3,29,000/- and what the tribunal awarded of Rs.3,29,000/- no way requires interference to reduce.

6. Accordingly and in the result, the appeal is dismissed. There is no order as to costs.

7. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

Date:24.11.2016
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¹ AIR 2001 (SC) 3218