HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A. No.4323 of 2008

JUDGMENT:

The 2nd respondent—insurer among the two respondents including the owner of lorry bearing No.AP 16 U 0029, in M.V.O.P. No.363 of 2007 on the file of Motor Accidents Claims Tribunal-cum-VI Additional District and Sessions Judge, Markapur, (for short 'the Tribunal') maintained by three claimants, who are wife, dauther and mother of the deceased by name Gurappa under Section 163-A of Motor Vehicles Act, 1988 (for short 'M.V Act') for a compensation of Rs.4,72,000/- together with interest at 12% per annum, for the accidental death of the deceased on 31.08.2007, in awarding compensation of Rs.3,40,700/- with interest at 8% per annum from the date of petition till the date of deposit, maintained the appeal mainly on the quantum of compensation awarded by the Tribunal as excessive and exorbitant, so also the rate of interest at 8% per annum and to reduce the same in awarding just compensation.

2) Whereas learned counsel for the claimants contending that the award of the Tribunal holds good and for this Court while sitting in appeal, there is nothing to interfere but for no cross objections to enhance the compensation and prayed to dismiss the appeal.

3) Heard learned standing counsel for appellant and learned counsel for respondents/ claimants. The 4th respondent—owner of the vehicle remained exparte before the Tribunal and even impleaded in this appeal no way fatal to the maintainability of appeal vide ***Meka Chakra Rao vs Y.Babu Rao***[1]. Perused the material on record.

[1] 2001 (1) ALT 495 DB

4) The accident was occurred on 31.08.2007. The age of the deceased is 25 years as per Ex.A3—post mortem report. Even under Schedule-II of M.V Act, for a person aged between 20 upto 25 years, the multiplier applicable is '17' as per the expression of the Apex Court in ***Sarla Verma vs Delhi Transport Corporation***[2]. So far as the income of the deceased is concerned, as per the expression of the Apex Court in ***Kishan Gopal vs Lala***[3], where the claim is made under Section 163-A of M.V Act, in the absence of proof of earnings, the income of the deceased of Rs.15,000/- per annum to be read as Rs.30,000/- per annum. As the claimants are three in number, 1/3rd to be deducted towards personal expenses, even that is taken into consideration the loss of dependency comes to Rs.3,40,000/- (Rs.30,000/- X 1/3 X 17) besides loss of estate, loss of consortium, funeral expenses, thereby what the Tribunal awarded is no way excessive.

5) So far as the negligence is concerned, with regard to the FIR, Charge sheet filed against the driver of the vehicle insured with appellant insurer, the Tribunal gave a finding from the evidence on record and there is nothing to rebut, for this Court while sitting in appeal, there is nothing to interfere.

6) Accordingly and in the result, the appeal is dismissed.

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

Dr. B. SIVA SANKARA RAO, J

Dt.01.09.2016
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[2] 2009 ACJ 1298
[3] 2014 (1) SCC 244