

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A. No.1026 OF 2012

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JUDGMENT:

The 2nd respondent—insurer among two respondents including owner of harvester machine bearing No.AP 25 N 4783 maintained the appeal impugning the award passed on 08.07.2010 in O.P. No.466 of 2008 on the file of Motor Accidents Claims Tribunal-cum-District Judge, Nizamabad (for short 'the Tribunal') awarding compensation of Rs.3,91,000/- with interest at 7.5% per annum, which is filed by parents of the deceased by name Pattewar Vijayender, under Section 166 of M.V Act (for short 'M.V.Act'), for compensation of Rs.6 lakhs. The Insurer filed this appeal with the contentions that the Tribunal gravely erred in taken Rs.4,000/- per month as earnings of the deceased without any basis and ought to have taken Rs.3,000/- per month and the multiplier adopted is '16', which is not correct as the claim filed under Section 166 of M.A Act, for a person aged between 35 - 40 years, the multiplier applicable is '15' and thereby to reduce the compensation.

2) Whereas it is the contention of the learned counsel for claimants that the award of the Tribunal holds good and for this Court while sitting in appeal, there is nothing to interfere.

3) Heard. Perused the material on record.

4) Now coming to the quantum of compensation, the deceased was aged 22 years, bachelor and earning Rs.15,000/- per month as supervisor of harvester machine but no proof filed. As per ***Latha Wadhwa vs State of Bihar***, in the absence of proof of earnings Rs.3,000/- is to be taken and as the accident dated 17.04.2008, which is nearly seven years after the expression, with proportionate increase Rs.3,700/- per month is to be taken, half to be deducted towards personal expenses as the deceased was bachelor and the age of the mother of the deceased is 38 years, the multiplier applicable is '15', as per ***Sarla Verma vs Delhi Transport***

Corporation, it comes to Rs.3,33,300/- (Rs.1850/- X 12 X 15). Apart from it, Rs.25,000/- towards funeral expenses and Rs.10,000/- towards loss of estate as per the three judge bench expression of the Apex Court in **Rajesh vs Rajbir Singh**, in all it comes to Rs.3,68,000/- rounded to Rs.3,70,000/-.

5) Accordingly and in the result, the appeal is partly allowed by reducing the quantum from Rs.3,91,000/- (Rupees three lakhs ninety one thousand only) to Rs.3,70,000/- (Rupees three lakhs seventy thousand only) with interest at 7.5% per annum from the date of claim petition till realization. The respondents to the claim petition, who are jointly and severally liable to pay compensation, are directed to deposit the said amount with interest within one month with notice, failing which the claimants can execute and recover. On such deposit, execution and recovery, the claimants are permitted to withdraw the same. No order as to costs.

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

Dr. B. SIVA SANKARA RAO, J

Dt.10.02.2016

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HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

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