

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

MACMA No.2345 OF 2006

JUDGMENT:

The 3rd respondent-Insurer among the three respondents including the driver and owner of the lorry bearing No.A.I.L.8915 in M.V.O.P.No.684 of 2005 on the file of the learned Chairman of the Motor Accidents Claims Tribunal-cum-District Judge, West Godavari, at Eluru (*for short, 'Tribunal'*), filed u/ s. 166 of the Motor Vehicle Act, 1988 (*for short, 'the Act'*), filed by the claimants viz; parents and younger brother of the deceased by name Garikapati Satish, aged about 20 years, for a claim of Rs.4,00,000/- for the death caused by the rash and negligent driving of the driver of the crime lorry supra while he was proceeding on his scooter, preferred the appeal impugning the award of the tribunal dated 14.06.2006 awarding compensation of Rs.4,00,000/- with interest at 6% p.a. with joint liability along with the driver and owner of the crime lorry, contended that the quantum awarded by the tribunal is excessive, exorbitant and without proper appreciation of the material on record. The mother of the deceased is only dependant and there are no other dependents, hence her age is criteria for calculating compensation. The tribunal ought to have exonerated him since the driver of the crime vehicle not having valid driving at the time of accident.

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

3. Heard and perused the material on record.

4. The claim petition averments show the deceased was aged about 20 years, unmarried and getting income at Rs.6,000/- p.m. but there is

no proof regarding the earnings, as rightly taken by the tribunal at Rs.3,000/-p.m. The accident was dated 17.06.2005. As per the expression of Apex Court in Latha Wadhwa vs. State of Bihar¹ even there is no proof of income and earnings, a minimum of Rs.3,000/- p.m. to be taken and even the same is taken with proportionate increase from the expression to the date of accident, it can be taken Rs.3,500/- p.m. if half deducted towards his personal expenses, then it comes to Rs.1750/-p.m. x 12 x even from the age of the mother, the multiplier 16 is taken, and funeral expenses and loss of estate is added, it comes to Rs.3,71,000/- which is just compensation for which the claimants are entitled, however enhancing the rate of interest to 7.5%p.a. since 6%p.a. is utterly low as per expressions of from the settled proposition of law in TN state Corporation Limited v. S.Rajapriya² and Rajesh Vs. Rajbir Singh³.

5. Accordingly and in the result, the appeal is allowed in part by reducing compensation from Rs.4,00,000/- to Rs.3,71,000/- however, by enhancing rate of interest from 6%p.m. to 7.5%p.a. In other respects, the award of the tribunal holds good. There is no order as to costs in the appeal. Consequently, pending miscellaneous petitions, if any, in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:01.09.2016
Vvr

¹ (2001) 8 SCC 197=AIR 2001 (SC) 3218

² 2005(6) SCC 236.

³ (2013) ACJ 1403