

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A M.P. No. 4237 of 2010

IN / AND

M.A.C.M.A. No.293 OF 2016

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JUDGMENT:

The claimants, no other than parents of deceased Md. Majid Ali, student of MBA, after completion of B.Sc computers, preferred the appeal having been aggrieved by the Order/Award dated 15.06.2009 of the Motor Accidents Claims Tribunal –cum- I Additional District Judge, at Mahabubnagar (for short, ‘Tribunal’) in O.P.No.634 of 2005 filed under Section 166 of the Motor Vehicle Act, 1988 (for short, ‘the Act’) for the death of deceased Md.Majid Ali, awarding compensation of Rs.1,65,000/- with interest at 7.5% per annum against claim of Rs.5,00,000/- by fixing joint liability against respondents 1 and 2 impugning the quantum of compensation awarded by the Tribunal is utterly low.

2. The reasons assigned for the delay of 353 days are that due to ill health and lack of funds, the delay is condoned subject to condition of not entitled to any interest on enhanced amount but from today.

3. At request of both parties, the appeal is taken up for hearing. Perused the material on record.

4. The brief facts of the case are that on 17.04.2005, while the deceased and another were going on Hero Honda, to attend function in Vidyut Colony, Shadnagar at about 5.30 pm the offending Eicher Van bearing No.AP U 5835 came from behind in a rash and negligent manner and dashed the motor cycle, as a result, the deceased—pillion rider jumped and fell down and the Eicher van ran over the said deceased and succumbed to injuries while shifting to Yashoda Hospital

from Government Hospital, Shadnagar, from which Crime No.108 of 2005 registered against the driver of the van vide Ex.A1 from which the police filed final report covered by Ex.A5—charge sheet, Ex.A3—post mortem report, Ex.A4—MVI report, Exs.A12 to A14 are the certificates regarding diploma in computer applications, certificate of excellence and NCC certificate “B”, Ex.A11—MBA fee receipt of 1st year, Ex.A8—B.Sc. Certificate and Ex.A9—B.Sc computers memo of marks. Ex.B.1 policy is marked on behalf of 2nd respondent.

5. Heard learned counsel for appellants/ petitioners and learned standing counsel for respondent No.2. Respondent No.1—owner of the Eicher Van remained ex parte before the Tribunal even impleaded dismissed for default vide order dated 24.02.2015, is no way fatal to the maintainability of the appeal vide **Meka Chakra Rao vs Y.Babu Rao**^[1] and the same is recorded hence taken as heard. Perused the material on record.

6. The claimants are the parents of the deceased bachelor and there is no proof regarding earnings of the deceased but for his academics, after completion of B.Sc computers degree, paid fee and joined in M.B.A and appeared for 1st semester exams, the Tribunal has taken the earnings of the deceased as on the date of accident dated 17.04.2005, at Rs.3,000/- per month. As per the expression of the Apex Court in **Latha Wadhwa vs State of Bihar**^[2] in the absence of proof of earnings, the minimum to be taken at Rs.3,000/- per month. As the accident occurred in the year 2005, the earnings of the deceased is to be taken at Rs.3,500/- per month, half to be deducted towards personal expenses, as claimants are the parents of the deceased from the age of the mother i.e., 45 years, as per **Sarla Verma vs Delhi Transport Corporation**^[3] the multiplier applicable is ‘13’, then the loss of earnings comes to Rs.2,73,000/- (Rs.1750/- X 12

X 13). Apart from it, Rs.25,000/- towards funeral expenses and Rs.10,000/- towards loss of estate, in all it comes to Rs.3,08,000/- is the just compensation for which the claimants are entitled to.

7. Accordingly and in the result, the appeal is partly allowed by enhancing the compensation from Rs.1,65,000/- to Rs.3,08,000/-. However, the enhanced compensation of Rs.1,43,000/- shall carry interest at 7.5% per annum from today till realization. Rest of the terms of the award holds good. No order as to costs.

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

Dr. B. SIVA SANKARA RAO, J

Dt.21.01.2016
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HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

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- [\[1\]](#) 2001 (1) ALT 495 DB
 - [\[2\]](#) AIR 2001 SC 3218
 - [\[3\]](#) 2009 ACJ 1298