

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

C.M.A. No.1299 OF 2004

JUDGMENT:

The 3rd respondent—insurer filed this appeal having been aggrieved by the order passed on 09.10.2003 in O.P. No.188 of 2001 on the file of Motor Accidents Claims Tribunal-cum-II Additional District Judge, West Godavari District at Eluru, (for short 'the Tribunal'), filed by two claimants, who are no other than parents of the deceased by name N.Satyanarayana, aged 25 years at the time of accident dated 02.03.2009, under Section 166 of Motor Vehicle Act, 1988 (for short 'M.V Act') for compensation of Rs.1,50,000/-, later enhanced to Rs.3,50,000/- maintained against three respondents including previous owner, present owner and insurer of lorry bearing No.AAE 1859 and the tribunal granted compensation of Rs.2,43,000/- with interest at 12% per annum.

2) The contentions of the insurer in support of the grounds of appeal that the Tribunal gravely erred in taking earnings of the deceased at Rs.2,500/- per month and the rate of interest awarded is also excessive, hence to reduce the compensation and also rate of interest.

3) Whereas it is the contention of the learned counsel for claimants/ respondents 1 and 2 to the appeal is that for this Court while sitting in appeal there is nothing to interfere, hence to dismiss the appeal. Respondents 3 to 4 to the appeal are no other than respondents 1 and 2 to the claim petition remained exparte before the Tribunal, even impleaded in this appeal dismissed for default is no way fatal to the maintainability of the appeal vide ***Meka Chakradhara Rao vs Yelubandi Babu Rao***^[1] and the same is recorded. Perused the material on record.

4) Now coming to the quantum of compensation, the accident was occurred on 03.02.2001, the deceased was claimed as earning Rs.2,000/- per month as per the claim petition averments. However, as per Ex.A5— salary certificate, the deceased was earning Rs.2,500/- per month. In fact

the expression of the Apex Court in ***Latha Wadhwa vs State of Bihar***^[2] came into force, by the date of accident, wherein it is stated that in the absence of proof of earnings minimum Rs.3,000/- is to be taken in a claim under Section 166 of M.V Act, as the claimants are two in number half deducted towards personal expenses, the multiplier applicable is '11' from the age of the mother of the deceased as 55 years, as per ***Sarla Verma vs Delhi Transport Corporation***^[3], it comes to Rs.1,98,000/- (Rs.1500/- X 12 X 11). Apart from it, Rs.25,000/- towards funeral expenses and Rs.10,000/- towards loss of estate, Rs.10,000/- towards love and affection, in all it comes to Rs.2,43,000/- is the just compensation. Thereby, for this Court while sitting in appeal there is nothing to interfere.

5) So far as the rate of interest is concerned, the Tribunal awarded interest at 12% per annum is excessive, as per the expression of the Apex Court in ***TN Transport vs Raja Priya***^[4] and ***Rajesh vs Rajbir Singh***^[5], wherein the Apex Court granted rate of interest at 7.5% per annum is just and reasonable, hence the rate of interest should be reduced from 12% per annum to 7.5% per annum.

6) Accordingly and in the result, the appeal is partly allowed by confirming the quantum of compensation awarded by the Tribunal and reduced the rate of interest from 12% per annum to 7.5% per annum from the date of claim petition till realization. The respondents in claim petition, who are jointly and severally liable to pay the 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 or execution and recovery, the claimants are permitted to withdraw the same. There is no order as to costs.

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

Dr. B. SIVA SANKARA RAO, J

Dt.22.02.2016
knl

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-

C.M.A. No.1299 OF 2004

-

Date:22.02.2016

knI

[\[1\]](#) 2001 (1) ALT 495 DB
[\[2\]](#) AIR 2001 SC 3218
[\[3\]](#) 2009 ACJ 1298
[\[4\]](#) 2005 (6) SCC 236
[\[5\]](#) 2013 ACJ 1403