HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A.No.35 of 2010

JUDGMENT:

The claimants are five in number, no other than wife, minor children and mother of the deceased-Chennaiah, aged about 32 years as per Ex.A3-Post Mortem report and the claim maintained under Section 163-A of the Motor Vehicles Act (for short 'the Act'), for a compensation of Rs.6,00,000/-against the owner of the auto rickshaw bearing No.27 X 0166 and its insurer as respondents 1 and 2, on contest since awarded by the tribunal of compensation of Rs.3,45,500/- with interest at 6% p.a. vide award dated 08.09.2009 in M.V.O.P.No.452 of 2008, maintained the appeal, impugning the said quantum as utterly low.

2. Heard the learned counsel for the appellants/claimants and the learned counsel for the insurer/2nd respondent. Though the 1st respondent served failed to attend and perused the material on record.

3. The claim maintained and findings given under Section 163-A of the Act are not in dispute. Once such is the case, so far as the deceased as washer man by avocation, what the tribunal taken of Rs.3,000/-p.m. as his earnings on the date of accident on 23.06.2008, no way requires interference even from the expression of the Apex Court in Kishan Gopal Vs Lala[1] guide lines. Now, so far as personal expenses deduction concerned, as

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[1] 2014(1)SCC-244)

per Schedule-II of the Act, for the claim under Section 163-A, it is 1/3rd and not from the dependants even more than two increases. The multiplier to be taken as per Schedule-II is ‘17’ and not ‘14’, as taken by the tribunal and what the interest awarded of 6% to be enhanced to 7.5% p.a. is reasonable, as laid down by the Apex Court in TN Transport Corporation v. Raja Priya[2].

4. Having regard to the above, the compensation as per Schedule-II of the Act is calculated, it comes to Rs.4,08,000/- (3,000/- x 12 = 36,000/- p.a. If 1/3rd is deducted towards personal expenses of the deceased it comes to Rs.24,000/- x 17 (multiplier)). Apart from it, the claimants are entitled to Rs.9,500/- towards funeral expenses, loss of estate and loss of consortium. Thus, in total, the compensation comes to Rs.4,17,500/-.

5. Accordingly and in the result, the appeal is partly allowed by enhancing the compensation from Rs.3,45,500/- to Rs.4,17,500/- with interest at 7.5% p.a. from the date of petition till realization. There is no order as to costs.

6. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

Date:19.10.2016
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[2] (2005) 6 SCC 236