

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

M.A.C.M.A.No.667 of 2010

JUDGMENT :

The claimants, no other than the parents of the deceased, by name, M.Srikanth, aged about 20 years, as per Ex.A.3-postmortem report, maintained the claim under Section 166 of the Motor Vehicles Act (for short, 'the Act') for a compensation of Rs.4,00,000/- against the owner and insurer of the jeep bearing No.AP 28 F 3385 and the Motor Accidents Claims Tribunal-cum-III Additional Chief Judge, City Civil Court, Hyderabad (for short, 'the Tribunal') by award dated 19.08.2009 in O.P.No.1729 of 2007, from the contest by the 2nd respondent-insurer having held that the accident was the result of the rash and negligent driving of the driver of the jeep, awarded a compensation of Rs.2,50,000/- with interest at 7.5% per annum and impugning the said quantum as utterly low, maintained the present appeal.

2. Learned counsel for the claimants reiterated the contentions in the grounds of appeal and it is submitted that the Tribunal has not justified in estimating the earnings of the deceased and multiplier adopted is also wrong. Hence, to allow the appeal as prayed for.

3. Whereas, it is the contention of the learned counsel for the respondents, there is contribution of the deceased/rider of the bike in causing the accident and that is also to be taken into consideration. Further, the Tribunal gravely erred in estimating 1/3rd instead of half

towards personal expenses. Thereby, there is nothing to enhance, hence to dismiss the appeal.

4. Heard and perused the material on record.

5. A perusal of Ex.A.4-Motor Vehicle Inspector Report and Ex.A.3-postmortem report, the motor cycle is not subjected to examination, but for jeep right side bonnet is damaged and front screen broken. It clearly shows the manner of accident from F.I.R. and charge sheet as the deceased and the vehicle of the 1st respondent were proceeding in opposite direction at the time of accident. Thus, there is also contribution by the deceased though major contribution is that of the jeep driver-1st respondent as postmortem report shows the deceased sustained as many as seven external injuries and death is the result therefrom. Having regard to the above factual matrix, it is just to fix the contribution of the deceased at 10% and the remaining 90% the respondents are liable. The Tribunal taken the age of the mother of the deceased as 45 in awarding the compensation and the multiplier that is applicable is '14' up to 45 years as per **Sarla Verma vs. Delhi Transport Corporation**¹, and as per the expression, half to be deducted towards personal expenses. The Tribunal estimated the earning capacity of the deceased at Rs.100/- per day. The accident was dated 20.06.2007. From the age of the deceased, even as a coolie he could earn Rs.3,600/- per month. If half deducted towards personal expenses, it comes to Rs.3,02,400/- (Rs.1,800 x 12 x 14). Apart from

¹ 2009 ACJ 1298

the above, the claimants are entitled to a sum of Rs.25,000/- towards funeral expenses and Rs.10,000/- loss of estate, in all it comes to Rs.3,37,400/- and in that 90% liability comes to Rs.3,03,600/-, rounded to 3,04,000/-, is the just compensation that is payable by the respondents.

6. Accordingly, the appeal is allowed in part by enhancing the compensation from Rs.2,50,000/- to Rs.3,04,000/- (Rupees three lakhs four thousand only) with the same rate of interest. Rest of the terms of the award of the Tribunal holds good.

7. Miscellaneous Petitions pending, if any, shall stand closed. No order as to costs.

15th December 2016

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Dr. B. SIVA SANKARA RAO, J

