

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A. No.70 of 2010

JUDGMENT:

The respondent Nos.2 and 3 who are the insurers of the CNS Aash Tanker Lorry bearing No.TN 41 P 4690 of the 1st respondent, maintained the present appeal impugning the award passed on 27.08.2009 in M.V.O.P. No.227 of 2007 on the file of Motor Accidents Claims Tribunal, Warangal, (for short 'the Tribunal'), which is maintained by wife, major son and minor son and major unmarried daughter of deceased Bandari Uppalaiah, under Section 166 of the Motor Vehicle Act, 1988 (for short 'M.V. Act') for the accidental death of deceased, for compensation of Rs.11,98,124/- since awarded by the Tribunal of Rs.12,23,552/- with interest at 6% per annum, maintained the appeal impugning the quantum as excessive and exorbitant.

2) Learned standing counsel for insurer drawn the attention of this Court on several aspects in the attempt to satisfy the quantum as excessive, to reduce the quantum as per the contentions in the grounds of appeal and prayed to allow the appeal by setting aside the award of the Tribunal. Whereas it is the submission of the learned counsel for respondents-claimants submits that for this Court while sitting in appeal there is nothing to interfere but for no cross objections to enhance the compensation, and prayed to dismiss the appeal.

3) Even notice served on respondent No.1—owner of the lorry, not chosen to appear hence taken as heard. Heard learned standing counsel for insurer and learned counsel for respondents—claimants. Perused the material on record.

4) As per para No.10 of the award of the Tribunal, from the finding that the accident was the result of rash and negligent driving of

the driver of 1st respondent, no way requires interference but for on the quantum of compensation.

5) Now coming to the quantum of compensation, Exs.A15 and 18 salary certificate and computerized pay slip respectively would show the monthly net salary of deceased was Rs.9,700/- and 11,175/- and the gross salary of deceased was Rs.13,930/- including preceding month of November, 2006 + saving deductions, from that it requires prospective earning capacity of 15% as per **Sarla Verma vs Delhi Transport Corporation¹**. The said finding of the Tribunal no way requires interference on the quantum arrived at. Apart from it, the claimants are entitled to Rs.50,000/- towards loss of consortium, Rs.25,000/- towards funeral expenses and Rs.10,000/- towards loss of estate as per **Rajesh vs Rajbir Singh²**, leave about, Rs.10,000/- to the minor children for care and guidance. The Tribunal need not confine to the quantum of compensation claimed and can grant more than the claimed amount if it is just and reasonable. Thus, the award of the Tribunal no way requires interference of this Court.

6) Accordingly and in the result, the appeal is dismissed confirming the award passed by the Tribunal. No order as to costs.

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

Dr. B. SIVA SANKARA RAO, J

Dt.19.10.2016
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¹ 2009 ACJ 1298

² 2013 ACJ 1403