

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A. No.423 of 2010

JUDGMENT:

The 2nd respondent—insurer among two respondents including owner Innova Car bearing No.AP AR 0006, maintained the appeal impugning the award passed on 20.02.2009 in M.V.O.P. No.270 of 2008 on the file of Motor Vehicles Accidents Claims Tribunal-cum-District Judge, Guntur, (for short ‘the Tribunal’) which is maintained by the claimants none other than parents of the deceased, aged about 21 years, final year B.Tech student of Agricultural Engineering College, Bapatla, under Section 163-A of the Motor Vehicle Act, 1988 (for short ‘M.V. Act’) for compensation of Rs.10,00,000/- for the accidental death in the motor accident dated 13.01.2008. From the contest by 2nd respondent—insurer for respondent No.1 remained *ex parte*, the Tribunal having held that the accident was the result of rash and negligent driving of the driver of the car of 1st respondent, awarded compensation of Rs.8,93,000/- with interest at 7% per annum by fixing joint liability against respondents.

2) Heard. Perused the material on record.

3) From the evidence of PWs.1 to 3 including eye witness PW.2, Exs.A1 to A5 viz., FIR, Inquest report, P.M.Report, M.V.I report, charge sheet respectively, on the quantum of compensation, the Tribunal observed that PW.3—fellow student of deceased in the same college stated that the deceased was a brilliant student and he would have got campus selection and from the judgment of Punjab and Haryana High Court in ***Ratna Chaudhuri vs State of Haryana***¹ showing final year

¹ 2006 ACJ 2700

MBA student estimated at Rs.8,000/- per annum and taken the earnings of the deceased at Rs.8,000/- per month.

4) In this case, a perusal of Exs.A8 to 14 show performance in academics of the deceased during 2004 – 2007 of getting possibility of good employment, an amount of Rs.8,000/- to be taken as earnings of the deceased and half to be deducted towards personal expenses, it comes to Rs.4,000/- and by taking the age of the mother, as the claim made under Section 163-A of M.V Act, from schedule-II the multiplier to be adopted is '16', then the dependency comes to Rs.7,68,000/- (Rs.4,000/- X 12 X 16). Further, Exs.A6 and A7—medical bills show that the claimants incurred an amount of Rs.1,14,298/- for purchase of medicines and hospital charges during the period of treatment before the death, the Tribunal has taken Rs.1,00,000/- in arriving such a compensation of Rs.8,93,000/- including transport, funeral charges, loss of estate with interest at 7% per annum. So far as the funeral expenses and loss of estate that can be awarded is only Rs.5,000/- (Rs.2,500/- each) as per schedule-II and not Rs.25,000/- as per **Rajesh vs Rajbir Singh**² though the Tribunal awarded Rs.10,000/- towards transport charges and funeral expenses and Rs.15,000/- towards loss of estate. There is nothing to reduce since the medical bills showing Rs.1,14,298/-, the Tribunal awarded at Rs.1,00,000/- and the same is considered. For this Court while sitting in appeal, there is nothing to interfere either on the finding of the rash and negligent driving or on the quantum arrived by the Tribunal but for no cross objections to enhance.

² 2013 ACJ 1403

5) Accordingly and in the result, the appeal is dismissed confirming the compensation awarded by the Tribunal. No order as to costs.

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

Dr. B. SIVA SANKARA RAO, J

Dt.24.11.2016
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