

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

M.A.C.M.A.No.4648 of 2008

JUDGMENT :

The 2nd respondent-APSRTC among two respondents including the driver of bus bearing No.AP 11 Z 2362 maintained the appeal impugning the order, dated 08.04.2008 in M.V.O.P.No.433 of 2004 on the file of Motor Accident Claims Tribunal (Principal District Judge), East Godavari at Rajahmundry maintained by two claimants, who are father and unmarried sister-dependants of the deceased, aged about 23 years, an engineering student and working as computer operator in New Centenary Public School, Kakinada, is established with pay rolls in proof of the fact including the attendance register, salary certificate and pay rolls particulars, in the claim maintained under Section 166 of M.V.Act., the Tribunal awarded Rs.4,64,000/- with interest at 7.5% per annum.

2. The contentions of the appellant are that the Tribunal gravely erred in believing the so-called earnings of the deceased and on the other breadth claimed as student of engineering and also taking the age of the mother is wrong as she is no more and predeceased to him, leave about the younger sister as she is not even dependent on him, but for on the father and thereby the compensation is required to be reduced apart from finding of the contribution of the deceased also.

3. The learned counsel for the appellant reiterated the above contentions.

4. Whereas, it is the submission of learned counsel for the claimants i.e., respondent Nos.1 and 2 to the appeal, the award of the Tribunal holds

good, but for no cross-objections, it requires enhancement. Hence, dismiss the appeal.

5. Heard and perused the material on record.

6. The evidence on record shows that the deceased was studying engineering. No doubt, the result shows it was a stop-gap employment. The claim is that the deceased was earning Rs.5,000/- per month and the compensation claimed is Rs.5,00,000/-. No doubt, even taking Rs.5,000/- per month by estimating the earnings from his engineering studying the appropriate earnings mainly as breadwinner, half to be deducted and not 1/3rd towards personal expenses, it comes to Rs.2,500/- x 12 = 30,000/- and by taking the multiplier '12', it comes to Rs.3,60,000/-. Apart from it, the claimants are entitled Rs.25,000/- towards funeral expenses, Rs.10,000/- towards loss of estate, in all it comes to Rs.3,95,000/-, rounded to Rs.4,00,000/- and what the Tribunal awarded is Rs.4,64,000/- is excessive, so to reduce the compensation.

7. Accordingly, the appeal is allowed by reducing the quantum of compensation from Rs.4,64,000/- to Rs.4,00,000/- with same rate of interest at 7.5% per annum from the date of claim till realization.

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

Dr. B. SIVA SANKARA RAO, J

26th September 2016

mar