

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A.No.4629 of 2008

JUDGMENT:

The 2nd respondent-insurer among two respondents including owner of lorry bearing No.AIK 1125 impugning the award of the tribunal dated 17.06.2008 in O.P.No.332 of 2006 maintained by the parents of the deceased boy, aged about five years by name Mohan, from the crime lorry run over the deceased boy when he was sitting near Sona crusher machine at about 9.30 a.m. on 25.03.2006 in claiming compensation of Rs.3,00,000/- under Section 166 of the Motor Vehicles Act and after contest by the parents and 2nd respondent-insurer from the owner remained ex parte before the tribunal, now represented not a necessary party even to the appeal, awarded compensation of Rs.2,00,000/- with interest at 7.5%p.a. and it is one of the contentions in the grounds of appeal that the tribunal ought to have been considered contributory negligence and the other contention is that compensation awarded is excessive and on high side.

2. Whereas, it is the contention of the learned counsel for the claimants that the award of the tribunal holds good and for this Court while sitting in appeal there is nothing to interfere.

3. Heard and perused the material on record.

4. The accident was dated 25.03.2006 and as per Ex.A3-Post Mortem report, the age of the deceased is more than five years. From the manner of accident speaks the accident was the result of rash and negligent driving of the driver of the lorry of the

1st respondent and from the evidence on record that of PW.1 and Ex.A1-F.I.R., Ex.A2-Inquest report, Ex.A3-Post Mortem Report, Ex.A4-charge sheet, the tribunal came to said conclusion rightly, for this Court while sitting in appeal on the said finding there is nothing to interfere including for no further material to hold that the deceased contributed to the accident. Even coming to the quantum, what the tribunal awarded is no way excessive to interfere much less to reduce.

5. Accordingly and in the result, the appeal is dismissed. There is no order as to costs.

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

Dr. B.SIVA SANKARA RAO, J

Date:09-09-2016
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