

HONOURABLE Dr. JUSTICE B. SIVA SANKARA RAO

M.A.C.M.A.No.4752 of 2008

JUDGMENT:

The claimants, no other than wife, major married daughter and major son of the deceased by name Adam, aged about 40 years as per Ex.A4-Post Mortem Report maintained the claim under Section 163 of the Motor Vehicles Act for a compensation of Rs.3,00,000/- for the accidental death of him on 13.05.2006, while he was going on his Hero Honda along with another when reached Malampadu, a jeep bearing No.AP 07T 4604 dashed against him from which he fell down and succumbed to injuries at the spot vide Crime No.30 of 2006 and from the contest by the 2nd respondent-insurer of 1st respondent remained ex parte, the tribunal having held that the accident was the result of rash and negligent driving of the driver of the crime jeep, awarded compensation of Rs.1,59,500/- with interest at 7.5% p.a. vide awarded dated 25.07.2008 in O.P.No.1301 of 2006 and impugning the said quantum as utterly low, the present appeal is maintained by claimants.

2. It is represented that the 1st respondent, who remained ex parte before the tribunal is not a necessary party to the appeal. Hence, the same is recorded.

3. Learned counsel for the appellants reiterated the contentions as raised in the appeal grounds.

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

5. Heard and perused the material on record.

6. There is nothing to interfere with the finding of the tribunal that the accident was the result of rash and negligent driving of the driver of the jeep of the 1st respondent insured with the 2nd respondent.

7. However, coming to the quantum of compensation, the deceased was aged about 40 years and the multiplier applicable as per *Sarla Verma v. Delhi Transport Corporation*¹ is '14.5'. So far as earnings of the deceased, there is no proof thereby even as per the expression of the Apex Court in *Kishan Gopal Vs Lala*², for a claim under Section 163-A of the Motor Vehicles Act, in the absence of proof of earnings Rs.15,000/- to be read as 'Rs.30,000/-'. If the same is taken into consideration and 1/3rd is deducted towards personal expenses of the deceased, it comes to Rs.20,000/- p.a. and the same is multiplied with multiplier '14.5', it comes to Rs.2,90,000/-. Apart from it, the claimants are entitled to Rs.9,500/- towards funeral expenses, loss of

¹ 2009 ACJ 1298

² 2014(1)SCC-244)

estate and loss of consortium. Thus, in total it comes to Rs.2,99,500/-, which is rounded to Rs.3,00,000/-.

8. Accordingly and in the result, the appeal is allowed by enhancing compensation from Rs.1,59,500/- to Rs.3,00,000/- with interest at 7.5% p.a. from the date of petition till realization. There is no order as to costs.

9. Miscellaneous petitions, if any pending, shall stand closed.

Date:12-09-2016
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Dr. B. SIVA SANKARA RAO, J

