

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

MACMA No.335 OF 2008

JUDGMENT:

The 2nd respondent-Insurer among the four respondents of the claim petition M.V.O.P.No.1183 of 2004 on the file of the learned Chairman of the Motor Accidents Claims Tribunal-cum-Additional District Judge, Visakhapatnam (*for short, 'Tribunal'*), filed u/s. 166 of the Motor Vehicle Act, 1988 (*for short, 'the Act'*), for the claim of Rs.8,00,000/- filed by the claimants viz; wife, two minor children and mother of the deceased Nagireddy Veera Venkata Satyanarayana, aged about 33 years as per Ex.X.1 Service Register of the deceased and A.6 S.S.C. Certificate his date of birth is 15.06.1969 though the post-mortem report Ex.A.3 shows the approximately 38 years, working as a Police Constable with gross salary of Rs.6,465/- as on the date of accident 05.04.2003, with averments that while the deceased was travelling with Ch.Ramesh, Nagaraju and Prasad in the TATA INDICA car bearing No.AP 31 U 7369 which is insured with the 4th respondent belongs to the 3rd respondent, the crime lorry of 1st respondent insured with the 2nd respondent supra allegedly due to rash and negligent driving of the driver of the lorry dashed the car resulting the deceased died in a way to hospital apart from one Ramesh died at the spot vide crime No.708 of 2003 of Panjagutta Police Station and from the contest by the 2nd respondent mainly with reference to the evidence on record of P.Ws. 1 to 3, Exs.A.1 to A.6 and X.1, the tribunal having held the accident was the result of rash and negligent driving of the driver of the crime lorry for no fault of the driver of the car in which the deceased and the others were proceeding, awarded compensation of Rs.8,00,000/- as prayed for with interest at 7.5% p.a. vide award dated 18.05.2006 by fixing liability

against respondents 1 and 2 viz; owner and Insurer of crime lorry, impugning the same maintained the appeal.

2. The main contention of the appellant is the multiplier 17 taken by the tribunal is wrong and it is only 12 even to a persons of 38 years and the age taken of 33 instead of 38 years and the Schedule II of the Act, has no application for the income of the deceased is more than Rs.40,000/- per annum to take multiplier 17 and the compensation awarded is excessive and thereby sought for reducing compensation by adopting correct age of the deceased with correct multiplier.

3. Whereas, it is the submission of the learned counsel for the appeal respondents 1 to 4/the claimants that the award of the tribunal holds good but for no cross-objections the compensation awarded is utterly low to enhance, hence to dismiss the appeal.

4. Heard both sides and perused the material on record.

5. The gross salary of the deceased is Rs.6,465/-p.m. Ex.X.1 and Ex.A.6 clearly show that he was born on 15.06.1969. As on the date of accident, dated 04.05.2003 aged 33 years for which the multiplier applicable is 16 and for a person who is a salaried employee as per Sarla Varma v. Delhi Transport Corporation¹ 50%prospective earnings also to be taken into considerations, it becomes Rs.9,000/- and 1/4th to be deducted therefrom as the claimants are 4 in number and such is the case, the contribution to the claimants is Rs.6,750/-p.m. x 12 x 16 = Rs.12,96,000/- apart from other conventional amounts like loss of consortium to the 1st claimant, care and guidance to the minor children, funeral expenses and loss of estate as per Rajesh Vs. Rajbir Singh², the claimants entitled. Thereby what the tribunal awarded is utterly low but for no cross-examination to enhance.

¹ 2009 ACJ 1298

² (2013) ACJ 1403

6. Accordingly and in the result, the appeal is dismissed. No costs. Consequently, pending miscellaneous petitions, if any, in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 18.08.2016
Vvr

