

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Cross-Objections(SR) No.44665 of 2010

In/and

M.A.C.M.A.No.2609 OF 2008

JUDGMENT:

The 2nd respondent-Insurer among the two respondents including the owner of the lorry bearing No.AP 16 V 7199 in M.V.O.P.No.1139 of 2000 on the file of the learned Chairman of the Motor Accidents Claims Tribunal-cum-District Judge, Guntur(*for short, 'Tribunal'*), filed by the injured claimant aged about 19 years, under Section 163-A of the Motor Vehicle Act,1988 (*for short, 'the Act'*) for a claim of Rs.5,00,000/- for amputation of the left leg about two inches below the knee joint proved from the Ex.A.8 disability certificate besides the evidence of P.W.1 injured with reference to Ex.A.2 wound certificate, including for the medical expenses and treatment covered by Ex.A.5 to A.7 all about Rs.15,000/- and add incurred, for the tribunal by its award dated 16.08.2005 granting compensation of Rs.4,00,000/- with interest at 6%p.a., with the pay and recover directions, maintained the appeal mainly impugning the quantum saying the tribunal gravely erred in taking Rs.4,500/- p.m. as earnings of the injured as vegetable vendor.

2. It is the averment that in the absence of proof of earnings, only Rs.3,000/- p.m. at best to be taken as per Latha Wadhwa vs. State of Bihar¹ that too when the accident was only dated 07.09.2000. Whereas,

3. It is the contention of the learned counsel for the claimants who maintained the Cross Objections that the compensation awarded is utterly low and it ought to have been awarded Rs.5,00,000/- at least with interest at 7.5%p.a. and thereby sought to allow the Cross-Objections by dismissing the appeal.

¹ (2001) 8 SCC 197=AIR 2001 (SC) 3218

4. Heard and perused the material on record.

5. No doubt for the tribunal to take Rs.4,500/- p.m. there is no basis. It is, as per Latha Wadhwa supra, a minimum of Rs.3,000/- p.m. to be taken, for the 50% disability rightly taken by the tribunal as per Schedule part-2, item No.21 of the Workmen's Compensation Act, 1923, it comes to Rs.1500/- x 12 x 18 multiplier from his age of the deceased of 19, as per Sarla Varma v. Delhi Transport Corporation² for the reason tribunal gave a finding on the rash and negligent driving that is proved from the claimants evidence in taking claim u/ sec.166 of the M.V.Act, it comes to Rs.3,24,000/-, besides medical expenses incurred from the bills filed shows Rs.15,000/-, attendant charges, transport charges, pain and sufferings, loss of earnings, for the period of treatment, extra nourishment even awarded of Rs.26,000/- and even granted Rs.40,000/- towards artificial limb, it all comes to Rs.3,90,000/- which is the just compensation the claimant entitled by the increase of rate of interest from 6% to 7.5% p.a.

6. In the result, both the Cross-Objections and the appeal are allowed by reducing the compensation from Rs.4,00,000/- awarded by the tribunal to Rs.3,90,000/-, however, by enhancing rate of interest from 6% p.a. to 7.5% Rest of the award holds good. No order as to costs.

7. Consequently, pending miscellaneous petitions if any in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 31.08.2016
Vvr

² 2009 ACJ 1298