HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

MACMA No.1202 of 2016

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JUDGMENT:

The claimants in O.P.No.876 of 2004 filed under section 166 of the of the Motor Vehicle Act,1988 *(for short, 'the Act')*, on the file of the Chairman, Motor Accidents Claims Tribunal–cum-XXII District Judge, Hyderabad (for short, 'the Tribunal'), to pay compensation of Rs.19,00,000/-(Rupees nineteen lakhs only) against the R.1 owner and R.2 also shown as if owner, R.3 Insurer-The New Indian Assurance Company Limited, Rajasthan of the crime vehicle bearing No. RJ-21-C-6394 and R.4 also shown as Insurer, and the tribunal awarded compensation of Rs.12,21,500/-(Rupees twelve lakhs twenty one thousand and five hundred only) with interest at 6% p.a. vide award dated 11.03.2011 by fixing liability against R.1-owner and R.3-Insurer of the claim petition by dismissing the claim against R.2 and R.4. Impugning the same, present appeal is filed with the contentions in the grounds of appeal that the compensation awarded by the tribunal is utterly low, hence to grant as prayed for.

2. It is impugning the same, the present appeal is filed by the claimants with a petition vide MACMAMP No. 3617 of 2012 seeking to condone the delay of 70 days in filing the appeal and the same is condoned but the claimants are not entitled to any interest on enhanced amount but for today. Registry is directed to number the appeal if it is otherwise in order. The appeal is taken up for hearing.

3. Heard the learned counsel for the appellants. The appeal against R.1 who remained exparte before the tribunal even impleaded in appeal dismissed as default no way fatal for the maintainability of the appeal. R.2 and R.4 are endorsed as not necessary parties. R.3 served but failed to attend taken as heard. Perused the material on record.

4. The deceased was working as a teacher. As per Ex.A.9 driving license his date of birth was 10.05.65. He did not get any service record or S.S.C. certificate to know his genuine date of birth. The tribunal taken therefrom multiplier 15. Gross salary is shown as Rs.8,957/- as per the Ex.A.7 salary certificate. For a teacher aged 58 years with retirement, if 30% towards prospective earnings with deduction of 15% towards income tax is taken, it comes to Rs.8,957/- +Rs.2687/-(30%) =11,644/- (-)Rs.1747/-(15%)=Rs.9897/- and the multiplier 14.5 from the age of about 40 years at the time of the death taken it comes to Rs.9897/-x12x14.5=Rs.17,22,078/-+1,35,000/- (Rs.1,00,000/- towards loss of consortium, Rs.25,000/- towards funeral expenses, Rs.10,000/- loss of estate, it comes to Rs.18,57,078/- is the just compensation to enhance from Rs.12,25,500/-.

5. In the result, the appeal is partly allowed by enhancing the compensation from 12,25,500/- to Rs.18,57,078/-(Rupees eighteen lakhs fifty seven thousand and seventy eight only) so also the interest from 6% p.a. to 7.5%p.a. but apply only from today on the total amount till realization. Rest of the award holds good. There is no order as to costs in the appeal. Consequently, miscellaneous petitions, if any pending in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 12.02.2016
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