HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

MACMA No.315 OF 2012

JUDGMENT:

The 3rd respondent-Insurer of the claim petition M.V.O.P.No.398 of 2003 on the file of the Chairman, Motor Accidents Claims Tribunal–cum-District Judge,Karimnagar(for short, 'the Tribunal') the claim maintained under Section 166 of the Motor Vehicle Act,1988 *(for short, 'the Act')*, by two claimants viz; mother and unmarried sister of the deceased Kola Mahesh aged about 24 years as per Ex.A.3 for his death in the accident on 07.03.2003 claiming compensation of Rs.10,00,000/-(Rupees ten lakhs only), preferred this appeal aggrieved by the award dated 06.06.2006 passed by the tribunal granting compensation of Rs.8,05,040/- with interest at 7.5% p.a. by fixing liability against all the respondents (Driver, Owner and Insurer-the appellant herein), with the contentions in the grounds of appeal as well as during the course of arguments that the quantum is excessive and exorbitant, that the tribunal erred in not taking the income tax deduction in earnings of the deceased from the salary certificate and taking of Rs.7,667/- deducting 1/3rd towards personal expense which is unsustainable, that the multiplier adopted 10 is also not correct, that the accident is of nature of head on collusion hence, there is contributory negligence, hence to set aside the award of the tribunal and reduce the quantum.

2. Whereas, it is the contention of the learned counsel for the respondents/claimants that there is nothing to interfere with the award of the tribunal for this Court while sitting in appeal for no cross-objections otherwise entitled to enhancement.

3. The 3rd respondent-driver though served failed to attend taken as heard and the 4th respondent-owner of the crime vehicle though impleaded failed to attend dismissed for default vide Court order dated 13.09.2011 is no way fatal for maintainability of the appeal as per **M.Chakrarao v. Y.Baburao**[1] and perused the material on record.

4. There is no dispute on the factum of Ex.A.7 salary pay slips of the deceased and Ex.A.9 letter of Traineeship offering job by the IPCA Laboratories which is also proved from the evidence of P.W.3 Regional Business Manager of the entity of the gross salary is Rs.10,269-47ps and net salary is Rs.9,850/- and the tribunal therefrom correctly taken Rs.7,667/- after deducting personal expenses. In fact, once he is an employee, as per **Sarla Verma v. Delhi Transport Corporation**[2] reiterated in **Rajesh v. Rajbir Singh**[3] a prospective earnings also to be taken into consideration. Even therefrom 30% increase in the prospective earnings taken into consideration and thereafter 15% of it towards income tax deducted and Rs.1,262/- deducted towards other compulsory deductions like professional tax etc. In view of that even taken Rs.5,000/-p.m.x12x13=Rs.7.80.000/- and Rs.25,000/- towards funeral expenses and Rs.10,000/- towards loss of estate is added it comes to Rs.8,15,000/- what the tribunal awarded of Rs.8,05,010/- is no way excessive to reduce even the rate of interest.

5. In the result, the appeal is dismissed. There is no order as to costs. Consequently, miscellaneous petitions, if any pending in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 06.01.2016
Vvr

---

[1] 2001 (1) ALT 495 DB

[2] 2009 ACJ 1298

[3] 2013(4)ALT 35(SC)