

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A M.P No.1387 OF 2011

IN/ AND

M.A.C.M.A. No.374 OF 2016

JUDGMENT:

Heard.

2) The delay of 197 days in filing the appeal is condoned.

3) At the request of both parties, the appeal is taken up for hearing.

4) The appellant—Insurance Company filed this appeal having been aggrieved by the Order/Award dated 16.06.2010 passed in M.V.O.P.No.248 of 2008 on the file of the Motor Accidents Claims Tribunal-cum-IV Additional District Judge, Tirupati (for short, 'Tribunal') awarding compensation of Rs.2,74,000/- with interest at 6% per annum against respondents, as claimed by the claimants who are parents of the deceased by name S.Saravana Murthy, who died in the motor accident dated 05.11.2007 under Section 166 of the Motor Vehicle Act, 1988 (for short, 'the Act') and the compensation awarded by the Tribunal is excessive and exorbitant.

5) Heard learned counsel for appellant and also learned counsel for respondents 1 and 2. Respondent No.3—owner of the maurthi van, remained exparte before the Tribunal even impleaded in the appeal dismissed for default, is no way fatal to the maintainability of the appeal vide ***Meka Charkadhara Rao vs Yelubandi Babu Rao***^[1] and the same is recorded.

6) The main ground in the appeal is that the Tribunal ought to have been considered the factum and half to be deducted towards personal expenses and not 1/3rd as the deceased was claimed as mechanic and earning Rs.5,000/- per month. However, the Tribunal taken the earnings of deceased at Rs.3,000/- per month. The claim is

undisputedly under Section 166 M.V. Act and even as per **Latha Wadhwa vs State of Bihar**^[2], in the absence of proof of earnings the minimum Rs.3,000/- is to be taken and from that expression to the date of accident i.e., 05.11.2007, which is nearly six years Rs.3,600/- is to be taken as earnings of the deceased and half deducted from it towards personal expenses it comes Rs.1800/-, the Tribunal taken the multiplier '11' from the age of mother of deceased about 50 years, the loss of dependency comes to Rs.2,37,000/- (Rs.1800 X 12 X 11). Apart from it, Rs.25,000/- towards funeral expenses, Rs.10,000/- towards loss of estate as per the apex Court's expression **Rajesh vs Rajbir Singh**^[3], in all it comes to Rs.2,72,600/- rounded to Rs.2,73,000/-. Thus, the award of the Tribunal no way requires interference as Tribunal awarded only 6% per annum.

7) Accordingly and in the result the appeal is dismissed with no costs.

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

Dr. B. SIVA SANKARA RAO, J

05.02.2016
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HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

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M.A.C.M.A. M.P. No. 1387 OF 2011
IN / AND
M.A.C.M.A. No.374 OF 2016

Date: 05.02.2016

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[\[1\]](#) 2001 (1) ALT 495 DB
[\[2\]](#) AIR 2001 SC 3218
[\[3\]](#) 2013 ACJ 1403