

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A. No. 671 OF 2016

JUDGMENT:

The claimants, who are no other than wife and three minor children of the deceased by name Yadagiri, aged about 40 years as per Ex.A10—ration card, maintained O.P. No.1420 of 2005 on the file of Motor Vehicles Accidents Claims Tribunal – cum- I Additional District Judge, at Warangal (for short ‘the Tribunal’) under Section 166 of M.V. Act for Rs.5 lakhs for the death of deceased on 29.03.2005, awarded Rs.1,80,000/- with joint liability against the owner and insurer by estimating the earnings of the deceased at Rs.15,000/- per annum for no proof regarding the cultivation and milk vendor and earnings Rs.5,000/- per month. It is impugning the said quantum and also the rate of interest at 7% per annum as utterly low, present appeal is filed by the claimants against the owner and insurer of Bajaj Tempo Trax-Toofan bearing No.AP 24 V 3080.

2) Respondents 1 and 2—owner and insurer of the Bajaj Tempo, remained exparte even served, hence taken as heard and perused the material on record.

3) Even in the absence of proof of earnings in the claim under Section 166 M.V Act as per **Latha Wadhwa vs State of Bihar**^[1], the minimum Rs.3,000/- per month is to be taken into consideration and the accident was occurred on 29.03.2005, which is nearly 4 years after the expression and even estimated therefrom including agriculture supervision of

land, the earnings of the deceased is to be taken at Rs.3,400/- per month and as the claimants are four in number $\frac{1}{4}^{\text{th}}$ to be deducted towards personal expenses as per **Sarla Verma vs Delhi Transport Corporation**^[2], it comes to Rs.4,28,400/- (Rs.2550/- X 12 X 14). Apart from it, Rs.1,00,000/- towards loss of consortium, Rs.25,000/- towards funeral expenses, Rs.10,000/- towards care and guidance of three children each and Rs.10,000/- towards loss of estate as per **Rajesh vs Rajbir Singh**^[3], in all it comes to Rs.5,93,400/- is the just compensation for which the claimants are entitled to.

4) So far as the rate of interest is concerned the claimants are entitled to interest at 7.5% per annum from the settled proposition of law in **TN Transport Corporation v. Raja Priya**^[4], **Sarla Verma Vs. Delhi Corporation**^[5] and from the latest expression of the Apex Court in **Rajesh V. Rajbir Singh**^[6],

5) Accordingly, the appeal is partly allowed to enhance the compensation from Rs.1,80,000/- (Rupees One Lakh Eighty thousand only) to Rs.5,93,400/- (Rupees Five Lakhs Ninety three only) subject to deposit of deficit court fee for Rs.93,400/- under Rule 475 of the A.P.M.V.Rules before the Tribunal failing which not entitled to execute. However, the enhanced amount shall carry interest at 7.5% per annum from today till realization. No order as to costs.

6) Consequently, miscellaneous petitions, if any pending in this Appeal shall stand closed.

Dr. B. SIVA SANKARA RAO, J

20.01.2016
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M.A.C.M.A. No.671 of 2016

Date: 20.01.2016

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- [\[1\]](#) AIR 2001 SC 3218
 - [\[2\]](#) 2009 ACJ 1298
 - [\[3\]](#) 2013 ACJ 1403
 - [\[4\]](#) (2005) 6 SCC 236
 - [\[5\]](#) 2009 ACJ 1298
 - [\[6\]](#) 2013 (4) ALT 35 (SC)