

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A M.P. No.2590 OF 2011

IN/ AND

M.A.C.M.A. No.848 OF 2016

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JUDGMENT:

The 2nd respondent—insurer among two respondents, filed the present appeal impugning the award dated 13.12.2010 passed in O.P. No.36 of 2010 on the file of Motor Accidents Claims Tribunal-cum-VI Additional District Judge, Guntur (for short ‘the Tribunal’) of the claim maintained by two claimants, no other than parents of the deceased Bhavana under Section 163-A of the Motor Vehicle Act, 1988 (for short ‘M.V. Act’) for compensation of Rs.3,00,000/- since awarded by the Tribunal of Rs.2,25,000/- with interest at 7.5% per annum, with the contentions that the quantum awarded by the Tribunal is excessive.

2) Heard learned standing counsel for appellant—insurer and learned counsel for the claimants—respondents 1 and 2. Respondent No.3/respondent No.1—owner of the auto 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 Charadhara Rao vs Yelubandi Babu Rao***^[1] and the same is recorded.

3) The delay of 26 days in filing the appeal is condoned.

4) At request of both the parties, the appeal is taken

up for hearing. Perused the material on record.

5) A perusal of the record shows that the deceased was aged about 4 years as per Ex.A5—post mortem report, the Tribunal awarded Rs.2,25,000/- with interest at 7.5% per annum against the claim of Rs.3,00,000/-. Impugning the same, the present appeal is filed with the contentions that the Tribunal erred in awarding such an exorbitant compensation for a child of four years though maximum Rs.1,00,000/- is the just compensation, thereby sought for reducing the same.

6) Whereas it is the contention of the learned counsel for respondents/ claimants that what the Tribunal awarded is just and for this Court while sitting in appeal, there is nothing to interfere. Perused the decisions referred before the Tribunal.

7) Even taken no fault liability of Rs.50,000/- for a child in the womb with minimum entitled and the age of the child is about 4 years though life is uncertain upto 1 to 7 years as per the expression of the Apex Court in ***Kaushlya Devi vs Shri Karan Arora***^[2] and even Rs.1,50,000/- awarded additionally, Rs.25,000/- towards funeral expenses, Rs.10,000/- towards loss of estate, Rs.15,000/- towards love and affection, minimum Rs.2,00,000/- is the just compensation for which the claimants are entitled to.

8) Accordingly and in the result the appeal is partly allowed by reducing the compensation from Rs.2,25,000/- (Rupees two lakhs twenty five thousand only) to Rs.2,00,000/-

(Rupees two lakhs only) along with interest at 7.5% per annum from the date of petition till the date of realisation. In other respects the award of the Tribunal holds good. No order as to costs.

9) Consequently, Miscellaneous petitions, if any pending in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Dt.22.01.2016
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[\[1\]](#) 2001 (1) ALT 495 DB
[\[2\]](#) 2007 (3) ACJ 1870