

THE HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

MACMA MP No.3676 OF 2011

IN/AND

MACMA No.406 OF 2016

JUDGMENT:

Heard the learned counsel for the appellants/ claimants and also the learned counsel for the second respondent/ insurer. The first respondent even served failed to attend, taken as heard and perused the material on record and delay is condoned subject to not entitled to interest from the date of claim petition, but from today. Appeal is taken up for hearing.

02. The claim of the appellants that the deceased worked as a handloom weaver, earned Rs.7,000/- per month and also the deceased had own handloom unit, however the Tribunal did not believe the evidence of P.Ws.1 and 3 in this regard for no proof, taken the earnings at Rs.100/- per day and Rs.3,000/- per month. In fact, as per the expression of the Apex Court in **Latha Wadhwa v. State of Bihar**^[1], in the absence of proof of earnings, minimum income at Rs.3,000/- per month to be taken and the date of accident is more than 7 years after the expression referred to supra, hence the income of the deceased can be taken at Rs.3,700/- per month, therefrom 1/3 of the earnings has to be deducted towards personal expenses, since the claimants are 3 in number then it comes to Rs.2,467/- and from applying multiplier '16' for the persons aged between 30 to 35 years, it comes to Rs.4,73,664/- (Rs.2,467x12x16). Hence, the claimants are entitled for an amount of Rs.4,73,664/- towards loss of earnings. Apart from the loss of earnings, the claimants are entitled for an amount of Rs.1,00,000/- towards loss of consortium, Rs.25,000/- towards funeral expenses and Rs.10,000/- towards loss of estate and Rs.10,000/- towards care and guidance to the claimants 2 and 3 each. In all the claimants are entitled for an amount of Rs.6,18,664/- is the just compensation to award.

03. Accordingly, and in the result, the MACMA MP No.3676 of 2011 is allowed and the appeal is allowed in part enhancing the compensation from Rs.3,61,000/- to Rs.6,18,664/-. The claimants are not entitled for the interest on the enhanced amount from the date of claim petition, but from today. No costs.

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

Dr. B. SIVA SANKARA RAO, J

28.01.2016

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[\[1\]](#) AIR 2001 (SC) 3218