THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

M.A.C.M.A.Nos.1119 of 2008 & 1686 of 2009

COMMON JUDGMENT:

The genesis of these two appeals, viz., M.A.C.M.A.No.1119 of 2008 filed by the claimants and M.A.C.M.A.No.1686 of 2009 filed by the 2nd respondent/Insurance Company is the Award, dated 03.09.2007, passed by the learned Chairman, Motor Accidents Claims Tribunal-cum-VI Additional Metropolitan Sessions Judge-cum-XX Additional Chief Judge, City Civil Courts, Secunderabad, in M.V.O.P.No.300 of 2004 filed by the claimants for award of compensation on account of the untimely death of R.Rakesh Kumar (hereinafter referred to as 'the deceased') who is the husband of the 1st petitioner/1st claimant, due to his involvement in a motor vehicle accident.

2. The parties in these appeals shall hereinafter be referred to as the claimants and the 2nd respondent/insurance company as arrayed in the original claim petition, for convenience and clarity.

3. I have heard the submissions of Sri Kota Subba Rao, learned counsel for the claimants (appellants in MACMA No.1119 of 2008) and of Sri E.Venugopal Reddy, learned Standing Counsel for the Insurance Company (appellant in MACMA No.1686 of 2009). I have perused the material record.

4. Before proceeding further, it is necessary to refer to the pleadings of the parties.

4.1 The case of the claimants, in brief, is as follows:

The deceased was of 42 years of age at the time of his involvement in the accident, which occurred on 29.08.2004. The 1st claimant, who was aged 40 years, is his wife; and, she is a house wife. Claimants 2 and 3 are their children. They are students and were aged 13 years and 11 years respectively, as on the date of the accident. The 4th claimant, aged 68 years, is the mother of the deceased. On 29.08.2004, while the deceased was proceeding on a scooter, bearing registration no. AP 28 AF 3583, from Tarnaka to Secunderabad and, on the way, when the said scooter reached Mettuguda Traffic signal point, one lorry bearing registration no.AAT 6222, loaded with bricks, being driven by its driver at a high speed and in a rash and negligent manner dashed the scooter from behind. As a result, the deceased fell down from the scooter and sustained grievous injuries and succumbed to the injuries while being shifted to Kamineni Hospital, L.B.Nagar. In the said accident, the pillion rider of the scooter also sustained injuries and the scooter was damaged. On a report, the Station House Officer, Chilakalaguda Police Station, registered a case in Crime No.425 of 2004 against the driver of the said lorry for the offences punishable under Sections 337, 304-A, 279 and 427 Indian Penal Code. The deceased was Proprietor of M/s. Manasa Foot Wear Industry and was also doing the businesses in Garments/Apparel by the time of his involvement in the accident and was earning approximately Rs.25,000/- per month. The net annual incomes of the deceased from his said businesses during the financial years 2003-04 and 2002-2003 respectively were Rs.2,95,850/- and Rs.2,63,925/- and the said facts are evident from the income tax returns of the deceased for the said financial years. The deceased was having good improvement and growth in his businesses. Had he been alive and continued his business, he would have earned tremendous profits in future years. He was the sole bread winner of the family and the claimants who were having no other sources of income were depending upon the deceased. On his death, the claimants suffered mental agony and their lives became miserable. The claimants spent huge amounts on transport of the dead body, post mortem and final rites of the deceased. In the facts and circumstances of the case, the claimants are entitled to claim a compensation of Rs.30 lakhs. The 1st respondent who is the owner and insured and the 2nd respondent who is the insurer of the said lorry are jointly and severally liable to pay the compensation to the claimants as the accident occurred due to the rash and negligent driving of the driver of the said lorry.

4.2 The 1st respondent/insured filed a counter denying the allegations in the claim petition of the claimants and *inter alia* contending as follows: 'At the traffic signal, invariably, the vehicles move cautiously and slowly. As such, the lorry was proceeding at a low speed at that point; hence, the question of rash and negligent driving on the part of the driver of the lorry does not arise for consideration. The cause of accident is attributable to the rider of the two-wheeler; he suddenly started the vehicle and proceeded without observing the traffic lights; his said act resulted in collision between the vehicles. After such collision, the rider of the motor cycle could not control himself & the vehicle and fell on the road and sustained injuries. Hence, there is no rashness or negligence on the part of the driver of the lorry. The accident had occurred only on account of the acts of the rider of the scooter. The investigation into the crime is pending. The lorry is having valid vehicular documents and its driver is holding a valid and effective driving licence at the time of the accident. The vehicle is insured with the 2nd respondent/insurance company and the insurance policy was valid and subsisting as on the date of the accident. Therefore, the compensation payable, if any, is payable by the 2nd respondent/insurance company. Hence, the petition against this respondent may be dismissed.'

4.3 The 2nd respondent insurance company filed a counter denying the allegations in the claim petition and *inter alia* contending as follows:

The insurance company is not aware as to who the claimants are; and also as to whether or not they are the legal representatives of and dependents on the deceased, who was said to have died on account of his involvement in the pleaded accident. The claimants are put to strict proof of each and every allegation in the claim petition. The manner of accident pleaded by the claimants is false. The claimants are put to strict proof of the manner of accident and the registration of the crime by the police concerned. The claimants are put to strict proof that there is no contributory negligence on the part of the deceased. For want of confirmation, this respondent denies the allegations made by the claimants and also the contention of the 1st respondent that the vehicle was insured with this 2nd respondent-insurance company and that the policy was valid and subsisting at the time of the accident and that the vehicle is having valid vehicular documents and that the driver of the vehicle was having valid and effective driving licence at the time of the accident. The age, occupation and income of the deceased as alleged in the claim petition are not admitted and are denied. The claimants have not claimed any amount towards damages caused to the scooter and did not produce any vehicular documents of the scooter. The claim of Rs.10,000/- on the basis that they got repaired the damaged scooter is denied. No notice as contemplated under law was issued by the 1st respondent to the 2nd respondent after the alleged accident. Therefore, this respondent is entitled to urge all general defences, which are available under the provisions of the Motor Vehicles Act besides other defences. Since the 1st respondent has not reported about the accident to the 2nd respondent, the 2nd respondent is not liable to pay any compensation. The compensation claimed is high and excessive. The claimants are not entitled to any compensation, much less the compensation claimed.

5. Having regard to the above pleadings, the Tribunal framed the following issues for trial:-

i. Whether the accident was occurred due to rash and negligent driving of lorry bearing No.AAT 6222?
ii. Whether the claimants are entitled to any compensation, if so, what amount and against whom?
iii. To what relief?

6. During the course of trial, the 1st claimant, an eyewitness to the accident and another witness, who was said to be the Supervisor in the Proprietary concern of the deceased, were examined as PWs 1 to 3. Exhibits A1 to A12 were marked on the side of the claimants. No oral was adduced on the side of the respondents 1 and 2. However, the policy of insurance in respect of the subject lorry was exhibited with consent as exhibit B1. On merits and by the order impugned in these appeals, the Tribunal awarded a total compensation of Rs.7,61,000/- with interest at 6% per annum from the date of the petition till the date of payment or realization and held that both the respondents are jointly and severally liable to pay the said compensation with interest to the claimants and directed them to deposit the said compensation within 30 days from the date of the award.

7. Not having been satisfied with the quantum of compensation awarded, the claimants preferred MACMA No.1119 of 2008. Aggrieved of the Award, the insurance company preferred MACMA No.1686 of 2009.

8. While answering the first issue, the Tribunal held that the accident occurred due to the rash and negligent driving of the lorry by its driver and that he was solely responsible for the accident. However, learned counsel for the Insurance Company would contend as follows: "The accident occurred not due to the sole rash and negligent driving of the driver of the lorry. The accident had occurred due to the contributory negligence of the driver of the lorry and also of the deceased, who drove the scooter at the time of the accident." The case of the claimants as regards the manner of the accident is as follows: 'On, 29.08.2004, while the deceased was proceeding on a scooter, bearing registration no. AP 28 AF 3583, from Tarnaka to Secunderabad and, on the way, when the said scooter reached Mettuguda Traffic signal point, one lorry bearing registration no.AAT 6222, loaded with bricks, being driven by its driver at a high speed and in a rash and negligent

manner dashed the scooter from behind. As a result, the deceased fell down from the scooter and sustained grievous injuries and succumbed to the injuries while being shifted to Kamineni Hospital, L.B.Nagar. In the said accident, the pillion rider of the scooter also sustained injuries and the scooter was damaged. On a report, the Station House Officer, Chilakalaguda Police Station, registered a case in Crime No.425 of 2004 against the driver of the said lorry for the offences punishable under Sections 337, 304-A, 279 and 427 Indian Penal Code." The 1st respondent contended in his counter that at the traffic signal, invariably, the vehicles move cautiously and slowly and as such, the lorry was proceeding at a low speed at that point and hence, the question of rash and negligent driving on the part of the driver of the lorry does not arise for consideration and that the cause of accident is attributable to the rider of the two-wheeler, who suddenly started the vehicle and proceeded without observing the traffic lights; and that his said act resulted in collision between the vehicles. However, the insurance company pleaded ignorance of the method and manner of accident and *inter alia* urged in its counter that the claimants are put to strict proof that there is no contributory negligence on the part of the deceased. Thus, there is no specific pleading in the counter of the Insurance Company that the accident was due to the contributory negligence of the deceased and also the driver of the lorry. Be that as it may. The claimants examined PW2, an eyewitness to the accident. He categorically deposed about the manner of the accident as pleaded by the claimants and maintained his stand in the cross-examination. His evidence is sufficiently corroborated by the contents of exhibit A1, attested copy of the FIR, exhibit A2, attested copy of the Inquest report, exhibit A4, attested copy of the MVI's report, and exhibit A5, attested of charge sheet. Exhibit A3 is the attested copy of the Post Mortem Report of the deceased. No evidence in rebuttal was adduced by the respondents 1 and 2 before the Tribunal. Thus, the unrefuted evidence of PW2, which is well corroborated by the contents of Exhibits A1 to A4, coupled with exhibit A5 is sufficient to come to a safe conclusion that the accident resulting in the death of the deceased occurred due to the rash and negligent driving of the driver of the lorry and that there was no contributory negligence on the part of the deceased. On the above analysis, this Court finds that the Tribunal was justified in answering the first issue that the pleaded accident which resulted in the death of the deceased occurred due to the rash and negligent driving of the lorry bearing no.AAT 6222 by its driver.

9. Turning now to the issue of issue of adequacy or otherwise of the compensation, it is to be noted that the Tribunal awarded a total compensation of Rs.7,61,000/-, that is, Rs.7,28,000/- towards loss of dependency, Rs.15,000/- towards loss of consortium to the 1st petitioner, Rs.15,000/- towards loss of love and affection, Rs.2,000/- towards funeral expenses and Rs.1,000/- towards transport charges.

10. Now, it is to be examined as to 'whether or not the said compensation is not just and fair and as to whether the claimants are entitled to any higher compensation than that was awarded by the Tribunal'.

11.1 Dealing first with the compensation to be awarded under the head 'Loss of Dependency', it is to be noted that the deceased was aged 49 years at the time of the accident is not in dispute. Coming to his occupation and income, the case of the claimants is that he was the Proprietor of M/s. Manasa Foot Wear Industry and was also doing business in apparel/garments and was earning approximately Rs.25,000/- per month and that his net annual income from his said businesses during the financial years 2003-04 and 2002-2003 respectively was Rs.2,95,850/- and Rs.2,63,925/- as per income tax returns and that he has got bright future and that if he were to be alive and continued his businesses he would have improved his business tremendously and would have earned good income in future. PW1, the wife of the deceased, while reiterating her pleaded case on this aspect in the affidavit filed in lieu of her examination in chief exhibited exhibit A6, certificate of Registration, dated 18.5.2000, of Manasa Foot Wear Industry, issued by the Commercial Taxes Department; exhibit A7, Saral Form II statement for the Assessment year 2002-2003; exhibit A8, Saral Form II statement for the Assessment year 2003-04; [both in the name of the deceased with enclosed computation statements]; exhibit A9, the original Pan card bearing No.ADOPR1026Q of the deceased. The two Saral forms, on a perusal would show that his total incomes from the business/profession were Rs.1,65,070/- and Rs.1,15,550/- and that his incomes from other sources were Rs.98,855/- and Rs.1,80,300/- and that his total incomes during the assessment years 2002-03 and 2003-04 respectively were Rs.2,63,925/- and Rs.2,95,850/-. But, in her cross-examination she stated as under on the relevant aspects: 'I do not know whether in exhibit A6 my deceased husband was shown as a Proprietor or not of M/s. Manasa Foot Wear Industry. It is true that except exhibit A6 I have not filed any document to show that the Manasa Foot Wear Industry was established and maintained by my husband. It is true that I have not mentioned whether Manasa Foot Wear Industry is a manufacturing unit or a dealer or sales agent etcetera. (The witness adds that it is a manufacturing unit). It is true that I have not filed particulars of the establishment, investment and capital of the said unit. It is true that I have not filed sales tax returns, books of accounts and records showing the particulars of the sales of the said unit. It is also true that we have not filed the bank statement to show the income from and expenditure on the said unit. It is true that the balance sheets attached to exhibits A4 and A8 are only copies attested by our chartered accountant. But, I have not filed the extracts of records from the I.T department. I do not know whether the income shown in the balance sheet was gross income or net profit of Manasa Foot Wear Industry. I do not know particulars of staff and their remunerations. (Witness adds that the businesses were used to be looked after by her husband). It is true that I have not filed balance sheets." Thus, her evidence, which discloses that she is not having personal knowledge of the business and the net incomes of her husband, is not of much help to advance the case of the claimants. PW2, as already noted, is an eye witness and he did not speak anything about the occupations and income of the deceased. PW3, who was said to have worked as a Supervisor in the unit of the deceased stated that he worked as a Supervisor in the Proprietary concern of the deceased and that he worked for one year and that Manasa Foot Wear Industry used to manufacture foot wear and that the raw material was used to be purchased from Hyderabad market and that deceased used to pay a salary of Rs.5,000/- per month to him and that the unit was closed after the death of the deceased and that the unit was opened on the occasion of Deepavali on 12.11.2004, i.e., after the death of the deceased, and that at that time, he accompanied the wife and other family members of the deceased and that they performed pooja in the unit by lighting candles and deepams/diyas and also agarbathis (incense sticks) and that they left the unit in the evening and that later they received a phone call that the unit was being gutted in fire and that on opening the shutters, they found that the stock of rubber material in the office room and files etcetera were burnt and that he suspected that the lighted candles, deepams and Agarbathis may be the cause for the fire accident. His testimony reads as under:

> "I am resident of Sitaphalmandi, the petitioners are residing at Ramantapur. The petitioner No.1 is my sister. I have accompanied at the time of cross examination of PW1 during conducted by the Advocate Commissioner. I am not working anywhere as mentioned in the Chief Affidavit. I do not know when the deceased Rakesh Kumar established M/s. Manasa Foot Wear Industry. I do not know the particulars of the director and Promoter of the said Industry. I do not know whether the Deceased has obtained any permission either from the factories department or Labour department. Nearly 10 employees were engaged. I have not filed any documents to show that I worked

as a supervisor and I was paid Rs.5,000/- per month. I do not know whether the payment of salary to me besides other employees were mentioned or not in the I.T returns submitted by the deceased. We used to sign on the muster rolls maintained by the said industry. But I have not filed the same before this Hon'ble Court. I am not eye witness to the accident but I came to know the deceased died on 29-8-2004. It is true that I have not mentioned the tenure of my services in the said Industry. It is true that in the affidavit I have mentioned that Industry was continued for 3 months even after the death of the deceased. I have not filed any documents to show that the said unit was caught fire on 12.11.2004. I came to know the said message through PW1. Even though I have informed about the said accident to the concerned police but they have not registered any F.I.R as no valuable items were damaged except firing of the rubber materials and office documents. I have not informed to the firing department. I do not know whether the police conducted the short panchanama or not. I do not know whether the management was informed to the factories department and labour department about the closure of the factory. I have not filed any document to show that the factory was closed after the fire accident. I do not know whether the petitioner has mentioned about the alleged fire accident of the industry either in the petition copy or in the Evidence Affidavit. It is not true to suggest that I have not worked in the said industry as an employee and I used to get Rs.5,000/- per month but I am giving the evidence in support of my sister claims who is the petitioner No.1 herein. It is not true to suggest that the deceased Rakesh Kumar never established the industry and it was not caught by fire in the fire accident. It is not true to suggest that I am deposing false to help the petitioners."

"I have not received summons to give evidence in this case. At the request of the petitioner, I am deposing. Padmavati is my sister. I came to know about the incident on phone call through petitioner. I worked in Manasa Foot Wear Industry for 1 year from November, 2003. I do not know whether M/s. Manasa Foot Wear Industry is a Proprietary concern or public limited concern. I have not filed any document in support of my salary in the court. There were 10 members attended the pooja on 12.11.2004. I accompanied them in the evening at 6.00 P.M and I came back with Half an hour. I do not know when the pooja was commenced. Again I went and I took prasadam and I came back along with petitioner and other family members. The petitioner informed me that fire accident took place at the office. The office key was with my sister and I went to the petitioner and picked up the key and I went to the office and seen the files and other documents have been burnt. I have not informed to the fire department with regard to the fire accident. Witness adds he went to P.S. Nacharam to give a complaint about the accident. Since the S.I Nacahram was not available when I went to P.S. Nacharam, I came back and on the next day morning I went to P.S. Nacharam to give a complaint and I have orally told them P.S Nacharam did not take any complaint saying that since only certain documents and certain files have been burnt they consider that it is a minor accident and they did not take complaint. After the demise of the Mr.Rakesh Kumar the production in the Industry was totally stopped and the stock in hand were sold at reasonable price. I have not claimed any compensation from the owner of the Manasa Foot Wear Industry. It is not true to suggest that there was no fire accident at M/s. Manasa Foot Wear Industry and that I am deposing false."

(Reproduced verbatim)

It is also to be noted that after PW1 was recalled she filed an additional affidavit in lieu of her additional examination in chief besides exhibit A10, copy of the FIR, and, exhibit A11, Panchanama, which are related to the fire accident. A perusal of exhibit A10, FIR would show that the crime was registered and the FIR was issued on the complaint of one Snehalatha W/o Chandrakanth, aged 31 years, resident of Moula Ali, Secunderabad. A perusal of the contents of the FIR related to the fire accident would show that she stated in her report that the fire accident occurred in her factory premises on 12/13-11-2004 and that she was informed by the neighbouring businessmen that there is fire in the factory premises and therefore, she and others immediately rushed to the spot and tried to extinguish the fire and that raw materials, cloth, finished goods of shirts, trousers, some specialized machines like, eyelet hole machine, button stitch machine, button hole machine and Bor Tac machine were there in the premises and that they could not ascertain the cause of fire and that the factory which was leased out belongs to M/s. Manasa Foot Wear Industry and that the building was also damaged due to heat and fire and that the total value of the goods lost will be furnished later." Thus, there is no consistent evidence on record as to whether the deceased was running the business or the business premises was leased out to some third parties. Admittedly, the deceased died two months prior to the fire accident due to his involvement in the accident. In the crime records, one Snehalatha was mentioned as Managing Director of Sneha Creations Private Limited. The 1st claimant's husband let out the premises to the Foot Wear industry, but they were not getting rents or benefits from M/s. Manasa Foot Wear is also admitted by PW1. Further, though PW3 stated that ten workers used to work in the unit; the particulars of their salaries and other expenditure were not stated and were also not mentioned in the computation statements annexed to exhibits A7 and A8. In view of the inconsistencies in the evidence and as there is no reliable evidence as to whether the deceased was actually carrying on the businesses or whether the businesses were being carried on by the lessee of the deceased, the Tribunal assessed, on a reasonable hypothesis, the annual income of the deceased at Rs.84,000/-. In the facts and circumstances of the case and after careful examination of the evidence, this Court is satisfied that the said income as assessed by the Tribunal can be taken as the annual income of the deceased.

11.2 Following the precedential guidance in the decision of the Supreme Court in Sarla Verma v. Delhi Transport Corporation and others[1], addition of 30% to the actual income of the deceased towards future prospects has to be made as the deceased had a permanent source of income and the age

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[1] 2009 ACJ 1298

of the deceased was between 40 to 50. If 30% is so added, the income of the deceased works out to Rs.1,09,200/- (Rs.84,000/- + Rs.25,200/-) per annum. Since the dependants are 4 in number, a 1/4th can be deducted towards personal and living expenses of the deceased. If so deducted, the annual contribution to the family works out to Rs.81,900/- (Rs.1,09,200/- - 27,300/-). Since the age of the deceased was 49 years as per his Pan Card, exhibit A9, the appropriate multiplier is '13' (thirteen). If the multiplicand is multiplied by the said multiplier, the compensation under the head 'loss of dependency' works out to Rs.10,64,700/- (Rs.81,900 x 13). The said amount is accordingly awarded as compensation under the head 'loss of dependency'.

12. In the decision in Anjani Singh and Ors. V. Salauddin & Ors[2], the Supreme Court by following the ratio in a three Judge Bench decision in Rajesh and Ors. V. Rajbir Singh and Ors[3] awarded in that case Rs.25,000/- towards funeral expenses and Rs.1,00,000/- each towards 'loss of love and affection' for the children and 'loss of consortium' to the wife of the deceased. Now, it is pertinent to refer to the relevant findings/observations in the decision Rajesh and Others vs. Rajbir Singh and others (3rd supra), wherein, the Hon'ble Supreme Court held to the following effect:

> "We may also take judicial notice of the fact that the Tribunals have been quite frugal with regard to award of compensation under the head "funeral expenses". The "price index", it is a fact has gone up in that regard also. The head "Funeral expenses" does not mean the fee paid in the crematorium or the fee paid for the use of space in the Cemetery and that there are many other expenses in connection with the funeral, besides expenses associated with religious practices and conventions and all those religious practices and conventions are very expensive."

The Supreme Court also held that it would only be just and reasonable that the Courts award at least Rs.1,00,000/- (Rupees One Lakh Only) towards loss of consortium. In the above precedent Supreme Court further awarded Rs.1,00,000/- (Rupees One Lakh Only) towards loss of care and guidance to the

[2] 2014 ACJ 1565 = 2014 (6) SCALE 55
[3] (2013) 9 SCC 54

minor children while awarding Rs.25,000/- (Rupees Twenty Five Thousands Only) towards funeral expenses. In the above precedent, the claimants are the widow and the minor children of the deceased, Bijender Singh, who was aged about 33 years at the time of the accident. Following the precedential guidance, a sum of Rs.1,00,000/- (Rupees One Lakh Only) is awarded to the first claimant towards loss of consortium and Rs.25,000/-(Rupees Twenty Five Thousands Only) is awarded towards funeral expenses. Further, a sum of Rs.1,00,000/- (Rupees One Lakh Only) each is awarded towards 'loss of love and affection' as the children of the deceased are students and unmarried. Further, Rs.5,000/- (Rupees Five Thousands Only) each is awarded under the two conventional heads 'loss of estate and transport expenses'.

13. Accordingly, the claimants are entitled to the following compensation amounts:

Sl. No.	Head of compensation	Amount (in Rs.)
(1)	Loss of dependency	10,64,700=00
(2)	Transport	5,000=00
(3)	Loss of consortium	1,00,000=00
(4)	Loss of love and affection, care and guidance	2,00,000=00
(5)	Loss of estate	5,000=00
(6)	Funeral expenses	25,000=00
Total		Rs.13,99,700=00

(Rupees Thirteen Lakhs Ninety-nine thousands and seven hundreds only)

The same is rounded off to Rs.14,00,000/- (Rupees fourteen lakhs only). The said sum as determined supra is a just and fair compensation to which the claimants are entitled, in the considered view of this Court. The rest of the claim is disallowed. However, the Tribunal had awarded compensation of Rs.7,61,000/-. Therefore, it follows that the compensation is enhanced by Rs.6,39,000/-. This Court accordingly holds that the claimants are entitled to a total compensation of Rs.14,00,000/- instead of Rs.7,61,000/- as determined by the Tribunal.

14. Coming to the rate of interest on the enhanced portion of the compensation, it is just and fair to award interest @6% per annum simple from the date of the claim petition as on the compensation already awarded, the Tribunal granted interest @6% per annum simple.

15. The enhanced compensation is apportioned as under: 'Rs.3,50,000/-(Rupees Three Lakhs Fifty Thousands only) to the 1st claimant; Rs.1,00,000/- (Rupees one Lakh only) each to the 2nd and 3rd claimants; and Rs.89,000/- (Rupees Eighty Nine Thousands Only) to the 4th claimant.

16. Having regard to the facts and circumstances, the insurance company is directed to deposit the enhanced portion of compensation i.e., Rs.6,39,000/- (Rupees Six Lakhs Thirty Nine Thousands only) with interest at 6% per annum simple from the date of the original petition till the date of deposit and also proportionate costs within two months from the date of the receipt of a copy of this common judgment. The already awarded compensation or any portion thereof, if not already paid or deposited as per the award of the Tribunal, the same may also be deposited accordingly. On such deposit of the amount before the Tribunal, the 1st claimant is permitted to withdraw entire proportionate costs and also Rs.2,00,000/- (Rupees Two lakhs Only) for the present; and, the 4th claimant is permitted withdraw her entire share of compensation amount with interest thereon. The Tribunal shall keep the balance compensation amount with interest thereon of the 1st claimant and the respective compensation amounts with interests thereon of the claimants 2 and 3 in separate fixed deposits in any Nationalised Bank of the choice of the 1st claimant till the release of the same to her and the claimants 2 and 3 as per the norms applicable.

17. In the result, M.A.C.M.A.No.1119 of 2008 filed by the claimants is allowed in part accordingly with proportionate costs as indicated above and M.A.C.M.A.No.1686 of 2009 filed by the Insurance Company is dismissed. There shall be no order as to costs.

Miscellaneous applications, if any, pending in these appeals shall stand closed.

M. SEETHARAMA MURTI, J

17th March, 2017
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