

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

M.A.C.M.A.No.578 of 2008

JUDGMENT :

The appellants are the officials of S.E. Railways (now East-Coast Railway) representing through Deputy Chief Manager and General Manager and the Union of India representing by the General Manager of East-Coast Railway supra. Respondent Nos.1 to 3 are the claimants and respondent No.4 is the driver of the jeep bearing No.OSK 5302 of the appellants. The claim petition is filed for the death of one Reddi Narayanamma, no other than the mother of three claimants, alleging that on 27.07.1991 while the deceased was proceeding on foot at Madhupada on left side of road, the driver of the Jeep of the appellants drove the vehicle in a rash and negligent manner, dashed her, resulting to which she sustained injuries and succumbed therefrom. The claim maintained is under Section 166 of M.V.Act for a compensation of Rs.60,000/- and the Tribunal awarded on contest of Rs.50,000/- with interest at 7.5% per annum. It is impugning the same, present appeal is maintained.

2. Heard learned counsel for the appellants. The claimants-respondent Nos.1 to 3 even served failed to appear, hence taken as heard.

3. Perused the material on record.

4. Sri R.S.Murthy, learned counsel for the appellants, vehemently argued that the finding of the Tribunal is unsustainable and the

Tribunal has no jurisdiction. Further, the quantum is otherwise excessive so also rate of interest.

5. In fact, it is a road accident while the vehicle was in use even that of the S.C. Railway, Central Government, is shown, that no way exempt from the provisions of the M.V.Act, 1988, amended by 1994, and thereby they are subjected to be submitted to the relief claimed by the claimants as the accident was out come of sheer negligence of the appeal 4th respondent-driver of the appellants. When such is the case, even coming to the rate of interest awarded at 7.5% is reasonable as laid down by the Apex Court in *Rajesh Vs. Rajbir singh*¹. Even the quantum it is in fact utterly low, but for no cross-objections to enhance. It is needless to say, what the amount paid or deposited by the appellants including reflected from the letter/proceedings dated 10.09.2016 addressed to the counsel by the appellants, the balance, if any, to be deposited or paid within two months.

6. The submission of learned counsel for appellant is that even as per the Act, no fault liability by then under Section 140 of the Act is only Rs.25,000/- and once the amount is deposited there is nothing for the Tribunal to decide or award Rs.50,000/- as compensation is untenable. The record when clearly shows the accident was the out come of the rash and negligent driving of the driver of the Jeep, thus but for no cross-objections to enhance from Rs.50,000/-, the amount awarded is utterly low. Thereby, there is nothing to interfere with the

¹[6] 2013 ACJ 1403

findings of the Tribunal in the appeal. Needless to observe, if any, separate claim petition is there what ever the amount awarded and deposited can be sought for adjustment.

7. Accordingly, the appeal is disposed of.

8. Miscellaneous Petitions pending, if any, shall stand closed. No order as to costs.

Dr. B. SIVA SANKARA RAO, J

30th September 2016

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