

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

C.M.A.No.3175 of 2004

JUDGMENT:

The claimants are son and wife of the deceased Ramulu though shown in the claim petition as aged 51 years as per Ex.A6 service particulars which shows 52 years, maintained the claim under Section 166 of Motor Vehicles Act for a sum of Rs.10,00,000/- for the accidental death of him on 20.03.2003 against the driver/1st respondent of the vehicle bearing No.AP-15-T-7342 of 2nd respondent S.C. Company Limited insured with 3rd respondent/insurance company with the averments that the deceased while proceeding on his Java motorbike at 8-incline mine at about 05.30 PM, due to rash and negligent driving of 1st respondent/driver of the vehicle dashed the bike, as a result of which he sustained fatal injuries and died instantaneously. The Tribunal held the accident was the result of rash and negligent driving of the 1st respondent, vehicle of the 2nd respondent insured with 3rd respondent and fixed joint liability as Ex.B1 policy covers the risk.

Coming to the quantum of compensation, Tribunal awarded Rs.5,36,000/- with interest @ 9% per annum from Ex.A5 salary certificate and Ex.A6 service particulars is criteria. Here one of the main contentions in the grounds of appeal, that the Tribunal ought to have taken net salary of Rs.6,510/- instead of gross salary of showing deduction apart from prospective earnings. A perusal of Ex.A5 clearly shows it is just to take the net salary as deduction shown of some perks, washing allowance etc., are payable while in service to the deceased during working days and the other leave encashment, PF contribution, life policy contribution are the benefits, there is nothing to interfere so far as that amount concerned,

however in arriving Rs.6,510/- net salary as submitted by the learned counsel for the appellants prospective earnings of the deceased also to be taken into consideration. As per **Sarla Verma Vs. Delhi Transport Corporation**¹ for persons aged about 50-60 years, prospective increase is 15% if such is the amount to be taken $\text{Rs.6,510/-} \times 15/100 = \text{Rs.976}$ $\text{Rs.976} + 6510 = \text{Rs.7,486/-}$ per month is to be taken and if income tax deduction even of deducted of Rs.1,186/-, it comes to $\text{Rs.6,400} \times 12 \times 11 (\text{multiplier}) = \text{Rs.8,44,800/-}$, if $1/3^{\text{rd}}$ deducted towards personal expenses therefrom comes to Rs.5,63,200/-, Rs.50,000/- minimum for loss of consortium, Rs.25,000/- towards funeral expenses and Rs.10,000/- towards loss of estate and what the Tribunal is to be enhanced from Rs.5,36,000/- to Rs.6,48,200/- however by reducing the rate of interest from 9% to 7.5% per annum.

Accordingly and in the result, the appeal is partly allowed by enhancing the compensation from Rs.5,36,000/- to Rs.6,48,200/- by reducing the rate of interest from 9% to 7.5% per annum. Rest of the award holds good.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 31.08.2016
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¹ 2009 ACJ 1298