

SMT JUSTICE T. RAJANI

MACMA.No.2184 of 2006

JUDGMENT:

This appeal is preferred by the appellants who are the claimants in the Court below assailing the judgment of the Chairman Motor Accidents Claims Tribunal - cum - I Additional District Judge, Rangareddy District at Saroornagar, Hyderabad, in O.P.No.210 of 1996 dated 23.10.1998, on the ground that the Court below erred in holding that there is no evidence to show that the deceased was working as Goldsmith and his earnings were Rs.4,000/- per month; even Ex.A-7 shows that the deceased was being paid Rs.65/- per day for 26 days as a casual Conductor which works out to be Rs.1,690/- per month, but the Court below took only Rs.1,200/- per month, which needs to be enhanced.

Heard both the learned counsel.

A perusal of the judgment of the Court below shows that in spite of the evidence of PW.1 that the deceased was earning Rs.65/- per day, as wages and the same being reflected in Ex.A-7, the Court below took only Rs.1,200/- as the monthly income of the deceased, which in my opinion, is not just. Rs.65/- per day is an income, which can be earned by any casual labourer and the same cannot at any stretch of understanding be considered as

exaggerated. Hence, Rs.1,690/- can be taken as the monthly income of the deceased.

Then claimants being more than four in number, the deduction towards personal expenses of the deceased, as per **Sarla Verma & Others v. Delhi Transport Corporation and another¹**, should be $1/4^{\text{th}}$. After the said deduction, the monthly income of the deceased comes to Rs.1,267.50 per month and Rs.15,210/- per annum.

The age of the deceased is stated to be 29 years and hence the multiplier relevant for his age would be '17' as per **Sarla Verma's case** and the claimants would be entitled to Rs.2,58,570/- (Rs.15,210/- x 17), towards loss of future income to the claimants.

Apart from that, following the judgment of the Apex Court in **Rajesh and others v. Rajbir Singh and others²**, Rs.1,00,000/- has to be awarded to the wife of the deceased, who is the 1st claimant, towards loss of consortium and Rs.1,00,000/- towards love and affection to the children of the deceased i.e., claimants 4 and 5 and Rs.25,000/- towards funeral expenses. Then the total award comes to Rs.4,83,570/-. But, the claim of the claimants is Rs.4,04,000/-. Hence, the same is restricted to the claimed amount.

¹ 1 (2009) 6 Supreme Court Cases 121

² 2013ACJ1403=2013(4)ALT35

This award shall relate back to the date of decree and the enhanced amount shall carry interest at the rate specified and from the time indicated in the order of the Court below.

In the result, the appeal is allowed with proportionate costs.

Pending miscellaneous petitions, if any, shall stand closed.

SMT. T. RAJANI, J

21st JULY, 2017.

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