SMT.JUSTICE T.RAJANI

M.A.C.M.A.No.3597 OF 2012

JUDGMENT:

This appeal is preferred by the appellants/claimants before the court below assailing the judgment of the I Additional District and Sessions Judge, Ranga Reddy District at L.B.Nagar, in M.V.O.P.No.1108 of 2009, dated 24.02.2012, on the ground that the compensation awarded by the court below is not adequate and that the court below erred in not taking the income of the deceased as Rs.8,000/- per month in spite of there being evidence.

2. Heard both the counsel.

3. The counsel for the petitioner contends that P.W.3 was examined to speak about the avocation and income of the deceased, but, the court below did not believe his evidence by considering that there are no supporting records.

4. This Court does not find any reason to find fault with the court below. In the absence of any evidence, the court has no other option except to assume the income. The counsel relies on the ruling of the Apex Court reported in ***Neeta W/o Kallappa Kadolkar & Ors. V/s Divisional Manager, Maharashtra State Road Transport Corporation, Kolhapur***[1], wherein the deceased was a carpenter apart from owning an

[1] 2015 (3) SCC 590.

agricultural land. Hence, the court on considering the said facts took Rs.12,000/- per month as the income of the deceased and it also considered the Minimum Wages Act, while arriving at the said income. But, in this case, the deceased is stated to be only a cashier in wine shop, hence, when there is evidence which is available and if the same is not produced, it has to be assumed that the income as spoken by PW.3 is not true. But, however, the future prospects of the deceased have to be considered.

5. The constitutional bench judgment of the Apex Court in ***National Insurance Company Limited v. Pranay Sethi & Others***[2] is to the effect that to a person aged up to 40 years, 50% has to be the future hike of the salary. Hence, going by the said standard Rs.4,500/- would be the standardized income of the deceased. The claimants being five in number, the deduction towards personal expenditure has to be 1/4th as per ***Sarla Verma v. Delhi Transport Corporation and another***[3]**,** after deducting 1/4th from the above salary, the loss of month comes to Rs.3,375/- and loss of annual income comes to Rs.40,500/-. The same multiplied with 16, which is appropriate multiplier as per ***Sarla Verma's case*** **(referred supra)** will Rs.6,48,000/-. The same is awarded under head loss of income to the claimants. Apart from the above, following the judgment of the Apex Court in ***Pranay Sethi's***

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[2] MANU/SC/1366/2017
[3] 2009 (3) ALD 83 (SC)

case (referred supra), Rs.40,000/- is awarded to the 1st petitioner under the head loss of consortium and Rs.15,000/- awarded towards funeral expenses and Rs.15,000/- is awarded towards loss of estate. Thereby, the total award amount comes to Rs.7,18,000/-.

6. The counsel for the petitioner submits that initially the claim amount was for Rs.6,00,000/- and the same was enhanced to Rs.8,00,000/- by virtue of an amendment. Hence, the claimants are entitled to enhanced compensation of Rs.7,18,000/- { i.e., Rs.6,48,000/- (loss of future income) + Rs.40,000/- (loss of consortium) + Rs.15,000/- (funeral expenses) + Rs.15,000/- (loss of estate)}. This award shall relate back to the date of decree and the enhanced compensation awarded shall carry interest at the rate specified and from the time indicated in the award by the Court below.

7. Accordingly and with the above observation, M.A.C.M.A.No.3597 of 2012 is allowed in part with proportionate costs. Miscellaneous petitions pending consideration, if any, in this appeal shall stand closed in consequence.

T.RAJANI, J

05.12.2017
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