

SMT JUSTICE T. RAJANI

MACMA.No.1150 of 2008

JUDGMENT:

This appeal is preferred by the appellant-insurance company, who is the third respondent before the Court below, assailing the judgment of the I Additional District and Sessions Judge, Ranga Reddy District in OP.No.267 of 2004 dated 31.12.2007 on the grounds that the Court below did not appreciate the fact that the vehicle number is not mentioned in the report and went wrong in considering the evidence of P.W.2, who got examined as an eye-witness; the Court below also adopted wrong multiplier of '18' whereas, in fact, '17' has to be the multiplier for the age of the deceased which is 27 years.

2. Heard both the counsel.

3. Counsel for the appellant contends that no vehicle number is mentioned in the FIR and it is only in the charge sheet that the vehicle number was mentioned.

4. P.W.2 was examined to speak about the negligence and involvement of the vehicle in the accident. He testified about the same. There is no reason to doubt his evidence, as he is cited as an eye-witness in the charge sheet also. The mere non-mentioning of the number of the vehicle in the report cannot be considered as a fact belying the vehicle number, which is mentioned in the charge sheet, which is filed after due investigation, and it can be considered as a document, which support the contents therein. Hence, the contention of the counsel for the appellant with regard to the involvement of the vehicle does not seem to be merited.

5. The contention with regard to the wrong application of the multiplier is found to be correct. The age of the deceased, admittedly, is 27 years and hence, the multiplier for the said age as per the decision of the Supreme Court in *SARLA VERMA v. DELHI TRANSPORT CORPORATION*¹ stands to be '17'. Hence, the same needs to be corrected. Hence, the loss of income that was arrived at by the Court below, which is Rs.12,000/-, has to be multiplied with '17', which would come to Rs.12,000/- x 17 = Rs.2,04,000/-. Hence, the amount arrived at by the Court below at Rs.2,16,000/- is substituted with Rs.2,04,000/- with proportionate costs.

6. To the extent indicated above, the award of the Court below stands modified and the rest of the award is left un-interfered with. This award shall relate back to the date of decree and the compensation awarded shall carry interest at the rate specified and from the time indicated in the award by the Court below.

The civil miscellaneous appeal is allowed in part. As a sequel, the miscellaneous applications, if any, shall stand closed.

T. RAJANI, J

October 27, 2017
DSK

¹ (2009) 6 SCC 121