

SMT JUSTICE T. RAJANI

MACMA.No.3532 of 2012

JUDGMENT:

This appeal is preferred by the appellants, who are claimants before the Court below, assailing the judgment of the I Additional Metropolitan Sessions Judge cum XV Additional Chief Judge, Hyderabad in OP.No.831 of 2008 dated 10.04.2011 on the ground that the compensation awarded by the Court below is not adequate.

2. Heard both sides.

3. The only grievance of the appellants is that the Court below having assessed the compensation to be Rs.2,25,000/- awarded only Rs.1,50,000/- by considering that the claim was only for Rs.1,50,000/-

4. Counsel for the appellants now relied on a decision of the Supreme Court in RAJESH v. RAJBIR SINGH¹ wherein it was held that the Courts have a duty to award just compensation and even if the compensation amount exceeds the claim, it can be awarded. Apart from the above, the counsel also relies on a decision of the Supreme Court in KISHAN GOPAL v. LALA² wherein the Supreme Court dealt with a case of death of a 10 year old boy, who assisted his father in agriculture operations.

5. The contention of the counsel for the appellants that the Supreme Court did not make any deduction in KISHAN GOPAL's case (2 supra) can be answered by stating the above decision did not go

¹ (2013) 9 SCC 54

² 2013 (8) SCJ 742

into the aspect of deduction towards personal expenditure but it was laid down that the issue to be determined by the tribunal to arrive at the loss of dependency, include deduction to be made towards personal living expenses of the deceased. It cannot be said that the deceased, who is aged below 15 years, would not be incurring any expenditure towards his or her personal expenses. Hence, 50% of the income of the deceased should be deducted towards personal expenses, as laid down by the Supreme Court in SARLA VERMA v. DELHI TRANSPORT CORPORATION³, in case of unmarried persons. Hence, Rs.15,000/- would be the loss of annual income to the claimants. The age of the deceased is stated to be less than 15 years, hence, the appropriate multiplier, as per SARLA VERMA's case (2 supra), is '15'. Hence, the loss of future income to the claimants would come to Rs.15,000/- x 15 = Rs.2,25,000/-. Following the latest decision of the Supreme Court in NATIONAL INSURANCE CO. LTD. v. PRANAY SETHI [SLP(Civil).No.25590 of 2014 dated 31.10.2017], Rs.15,000/- is awarded towards loss of estate and Rs.15,000/- is awarded towards funeral expenses. Hence, in all, the claimants are entitled to total compensation of Rs.2,25,000/- + Rs.15,000/- + Rs.15,000/- = Rs.2,55,000/- with proportionate costs.

6. Hence, the award of the Court below is modified as indicated above. The award shall relate back to the date of decree and the compensation awarded shall carry the interest at the rate and from the date specified by the Court below. The claimants shall pay the differential court fee.

³(2009) 6 SCC 121

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

December 6, 2017
DSK

T. RAJANI, J

