SMT JUSTICE T. RAJANI

MACMA.Nos.861 and 25 of 2013

COMMON JUDGMENT:

MACMA.No.861 of 2013:

This appeal is preferred by the appellants/APSRTC, who are the respondents before the Court below, assailing the judgment of the III Additional Chief Judge, City Civil Court, Hyderabad in OP.No.796 of 2009 dated 06.07.2012 on the ground that the Court below fixed the liability only on APSRTC.

2. Heard both sides.

3. The counsel for APSRTC now relies on a decision of the Supreme Court in KSRTC v. NEW INDIA ASSURANCE CO. LTD.[1] and contends that the insurance company is also jointly and severally liable along with APSRTC.

4. Following the said decision, APSRTC, owner and the insurer i.e. fourth respondent herein are made jointly and severally liable. However, APSRTC is at liberty to recovery the said amount from the owner.

The civil miscellaneous appeal is allowed in part.

MAMCA.No.25 of 2013:

5. This appeal is preferred by the appellants, who are the claimants before the Court below, assailing the judgment of the III Additional Chief Judge, City Civil Court, Hyderabad in OP.No.796 of

[1] 2015 96) ALD 166 (SC)

2009 dated 06.07.2012 on the grounds that the income taken by the Court below is not adequate and it did not consider the evidence of P.W.3, that the deceased was paid Rs.5,000/- per month.

6. The Court below, by considering that no supporting evidence was adduced in respect of the income, took only Rs4,500/- per month as the income of the deceased, which cannot be found fault with. However, the Court below did not consider the future prospects of the deceased and the future hike in the income, which is likely to occur.

7. The deceased was aged 23 years. Hence, following the decision of the Supreme Court in NATIONAL INSURANCE CO. LTD. v. PRANAY SETHI [Special Leave Petition (Civil) No.25590 of 2014 and batch dated 31.10.2017] the future hike in income has to be taken as 40%. The loss of monthly income would come to Rs.4,500/- + (Rs.4,500/- x 40% = Rs.1,800/-) = Rs.6,300/- and the loss of annual income would come to Rs.6,300/- x 12 = Rs.75,600/-. The deceased being a bachelor, half (1/2) of the income has to be deducted towards his personal expenditure i.e. Rs.75,600/- x ½ = Rs.37,800/-. The multiplier relevant for the age of the deceased as per the decision of the Supreme Court in SARLA VERMA v. DELHI TRANSPORT CORPORATION[2] is '18. Hence, the loss of future income would come to Rs.37,800/- x 18 = Rs.6,80,400/-. Apart from the above, following the decision of the Supreme Court in PRANAY SETHI's case (supra) 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.6,80,400/- + Rs.15,000/- +

[2] (2009) 6 SCC 121

Rs.15,000/- = Rs.7,10,400/-, which is rounded off to Rs.7,11,000/-. Though the compensation exceeds the claimed amount, now the law is well settled by virtue of the decision of the Supreme Court in RAJESH v. RAJBIR SINGH[3], wherein it was held that the compensation has to be just and it can exceed the claimed amount. This Court also in ADAM INDUR MUTEMMA v. RATHOD PEDDITA[4] held that the compensation amount can exceed claimed amount, subject to payment of court-fee.

9. Hence, the award of the Court below is modified as indicated above with proportionate costs. The apportionment of compensation shall be in terms of the apportionment made by the Court below. 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 civil miscellaneous appeals are allowed in part. As a sequel, the miscellaneous applications, if any pending, shall stand closed.

T. RAJANI, J

December 14, 2017
DSK

[3] (2013) 9 SCC 54
[4] 2015(4) ALD 585 (LB)