SMT. JUSTICE T.RAJANI

MACMA. No.519 of 2008

JUDGMENT:

This appeal is preferred by the appellants, who are the claimants in the lower court, questioning the judgment of the District Judge, Karimangar, passed in O.P. No.588 of 2006, dated 23-01-2008 on the grounds that the lower Court granted only meager amount as compensation i.e. Rs. 2,88,000/- as against the claim of Rs.8,50,000/-. It also fixed monthly income of the deceased at Rs.2000/- per month instead of Rs.6,000/- per month, inspite of evidence of PW.3.

At the hearing, learned counsel for the appellant contended that the lower Court took only Rs.2,000/- per month as income of deceased, inspite of PW.3 being examined to speak about the income. PW.3 is allegedly a co-employee of the deceased. It can be seen from the record that though PW.3 spoke about the employment of the deceased and his salary as Rs.6,000/-, as rightly observed by the lower Court, there is no semblance of evidence with regard to employment of PW.3 himself. Hence, the approach of the lower Court in discarding his evidence cannot be found fault with. The appellants ought to have examined a competent person from the office to speak about the employment of the deceased and also his income. The lower Court, however has taken Rs.2,000/- as monthly income of the deceased, which can be said to be on the lower side. In the absence of cogent evidence on income, usual practice of the Courts is to take at least Rs.3,000/- per month as the income of a person. The law is well settled with regard to future hike of the income of a person by atleast 50% . Hence, in this case Rs.4500/- is to be taken as neutralized future salary of the deceased. The appellants are six in number. Hence, as per the judgment of Apex Court in **SARALA VERMA**

Vs. DELHI TRANSPORT CORPORATION[1]. 1/5th is to be deducted as against 1/3rd which was deducted by the lower Court and Rs.3600/- shall be loss of monthly income and loss of annual income of the deceased comes to Rs.43,200/-. The multiplier adopted by the lower Court is '16' and there is no resistance offered by the respondents, as none appeared for the respondents at the hearing. Hence Rs.43,200/- x 16 = Rs.6,91,200/- is the amount that is to be awarded towards the loss of future income to the claimants. Hence the award of the lower Court stands enhanced to Rs.7,23,200/- which includes the amounts awarded by it under other heads.

In the result, the appeal is partly allowed by enhancing the award amount to Rs.7,23,200/- (Rupees Seven Lakhs Twenty three thousand and two hundred only) with proportionate costs. As a sequel, miscellaneous petitions if any, pending in this appeal shall stand closed.

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

JUSTICE T.RAJANI

13-04-2017
Nvl

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1 (2009) 6 SCC 121