

THE HON'BLE SMT JUSTICE T. RAJANI

MACMA No.2372 of 2006

Date 14-07-2017

Between:

Vuskamalla Narsaiah and another.

... Petitioners.

And

M/s.National Insurance Company Limited
Represented by its Divisional manager,
Divisional Officer,
Insurer of Lorry No.AP-16-W-5189,
Karimnagar, Karimnagar District

... Respondents



THE HON'BLE SMT JUSTICE T. RAJANI**MACMA No.2372 of 2006****JUDGMENT:**

This appeal is preferred by the appellants who are the claimants in the lower Court, assailing the judgment of the District Judge, Adilabad in O.P.No.359 of 2001 dated 25-08-2004 on the grounds that the compensation awarded by the lower Court is very low; the lower Court did not believe the evidence of P.W.2, who spoke about the income of the deceased, on the ground that no supporting documents are filed by P.W.2; the said approach of the Court below is erroneous; the Court below deducted half of the income towards personal expenses instead of 1/3rd.

At the hearing, the counsel for the appellants was present, but the counsel for the respondent did not appear. The claimants, to speak about the income of the deceased, examined P.W.2 who is a partner of the Sri Krishna Electrical Company, where the deceased was allegedly working. According to evidence of P.W.2, the deceased was being paid a monthly salary of Rs.3,000/- apart from getting an income of Rs.8,000/- to Rs.9,000/- per month by working in other companies. The lower Court did not believe the evidence of P.W.2 considering that he did not file the accounts and the registers that are admittedly maintained by him. However, the fact that the deceased passed Electrical Engineering is not disputed and disproved. Hence, in the light of the fact that he passed Electrical Engineering, his earnings at Rs.3,000/- per month cannot be termed as exaggerated. But, however, the testimony of P.W.2 does not inspire confidence so far as his testifying about the income that the deceased has been fetching at the rate of Rs.8,000/- to Rs.9,000/- by working in other companies. For the said fact to be taken as true, the claimants ought

to have examined the employers from whom the deceased has been receiving Rs.8,000/- to Rs.9,000/- as monthly income instead of P.W.2 who was paying a lesser salary. But as already observed, there cannot be any embargo for accepting the monthly income of the deceased as Rs.3,000/- per month. The same has to be enhanced by another 50%, which would be the future hike of income of the deceased. Then the monthly income would come to Rs.4,500/-. The counsel for the appellants does not press that 1/3rd has to be deduction towards personal expenditure of the deceased. He concedes that in a case of bachelor, half of the income of the deceased has to be deducted towards his personal expenditure. Then the loss of monthly income would be Rs.2,250/- per month and Rs.27,000/- per annum. The multiplier which is relevant for the age of the deceased can be taken by following the judgment of the Apex Court reported in **MUNNALAL JAIN AND ANOTHER vs. VIPIN KUMAR SHARMA AND OTHERS**¹, which followed a Three Judge Bench decision in **RESHMA KUMAR AND OTHERS vs MADAN MOHAN AND ANOTHER**², which held that the multiplier to be used is with reference to the age of the deceased. Even in **SARLA VERMA vs. DELHI TRANSPORT CORPORATION**³, it is held that the multiplier relevant to the age of the deceased has to be taken while computing the compensation. Hence, Rs.27,000/- X '18' = would come to Rs.4,86,000/-. The lower Court did not award any amount towards funeral expenses. Following the judgment of the Apex Court in **RAJESH & OTHERS vs. RAJBIR SINGH AND OHTERS**⁴, Rs.25,000/- is awarded towards funeral expenses and Rs.1,00,000/-

¹ 2015 (6) SCC 347

² (2013) 9 Supreme Court Cases 65

³ (2009 ACJ 1298 (SC))

⁴ 2013 ACJ 1403

is awarded towards loss of love and affection. Hence the award of the lower Court is enhanced to Rs.6,11,000/-. The enhanced award by the Court relates back to the date of decree of the lower Court and shall carry interest at the rate and from the time specified by the lower Court.

Appeal is allowed with proportionate costs.

As a sequel, miscellaneous petitions, if any, pending in this appeal, shall stand disposed of.

JUSTICE T. RAJANI

Date: 14-07-2017.

mrb



