

SMT JUSTICE T. RAJANI

MACMA.No.283 of 2006

JUDGMENT:

This appeal is preferred by the appellants, who are claimants before the Court below, assailing the judgment of the V Additional District Judge, City Civil Court, Hyderabad in OP.No.1055 of 2003 dated 22.08.2005 on the grounds that the Court below did not award adequate compensation, as it awarded only Rs.2,21,500/- as against the claim of Rs.4,00,000/- and it erred in taking the income of the deceased as only Rs.50/- per day and it ought to have taken Rs.100/- per day as the income of the deceased; the Court below erred in taking 17 as the multiplier instead of adopting 18, as per the second schedule of the Motor Vehicles Act. The Court below ought to have awarded Rs.15,000/- towards pain and suffering.

2. Heard both the counsel.

3. At the hearing, counsel for the appellants, does not press the ground raised in the appeal with respect to adopting the multiplier '18', as, for the age group 25-30, as per the decision of the Supreme Court in SARLA VERMA v. DELHI TRANSPORT CORPORATION¹, the multiplier relevant is '17', which was appropriately taken by the Court below. However, with regard to the income of the deceased, he contends that the approach of the Court below in taking Rs.50/- as the income is far from justice and at least Rs.100/- per day should be taken as the income of the deceased. This Court also opines that in the least Rs.3,000/- can be taken as income of the deceased,

¹ (2009) 6 SCC 121

who is stated to be working as civil mason. Hence, by taking Rs.3,000/- as the monthly income and after deducting 1/3rd towards the personal expenditure of the deceased, Rs.2,000/- would be the loss of monthly income and Rs.24,000/- (Rs.2,000/- x 12) would be the loss of annual income. Multiplier '17', being the appropriate multiplier relevant for the age of the deceased, the loss of dependency would come to Rs.24,000/- x 17 = Rs.4,08,000/-.

4. The counsel for the appellants also contends that the Court below awarded Rs.15,000/- towards consortium but as per the decision of the Supreme Court in RAJESH v. RAJBIR SINGH² Rs.1,00,000/- has to be awarded towards loss of consortium. Relying on the said judgment, he also contends that Rs.25,000/- should be awarded towards funeral expenses but the Court below awarded only Rs.2,000/- towards funeral expenses. Hence, bound by the said decision, Rs.1,00,000/- towards loss of consortium and Rs.25,000/- for funeral expenses of the deceased is awarded, thereby, granting total compensation of Rs.5,33,000/-. Though the claim of the claimants is only Rs.4,00,000/-, the learned counsel takes the help of the aforesaid decision again, to contend that the award over and above the amount claimed can be granted if it is found just by the Court.

5. Hence, the award of the Court below is enhanced from Rs.2,21,500/- to Rs.5,33,000/- as indicated above and the rest of the award is left uninterfered with. This award shall relate back to the date of decree and the enhanced amount shall carry interest at the rate specified and from the time indicated in the award by the Court below.

² (2013) 9 SCC 54

The claimants shall pay the Court fee on the amount awarded to the extent it is over and above the claimed amount.

The civil miscellaneous appeal is allowed in part. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

July 27, 2017
DSK

T. RAJANI, J

