

SMT. JUSTICE T.RAJANI

MACMA No.926 of 2006

JUDGMENT:

This appeal is preferred by the appellants, who are the claimants before the Court below, assailing the order of the I Additional District and Sessions Judge, passed in MVOP. No.457 of 2003 on 21.02.2006 on the grounds that the Court below did not award adequate compensation but awarded only Rs.1,20,000/- against the claim of Rs.5,00,000/-.

Heard the learned counsel on either side and perused the material on record.

The learned counsel for the claimants submits that the claimants are the mother, father, brother and sister of the deceased. The deceased was a bachelor aged 26 years. The Court below did not accept the version of the claimants that the deceased was a cleaner. But that finding seems to be incorrect in the light of the contents of the First Information Report that was marked as Ex.A-1, translated version of which was marked as Ex.A-2, which shows that the deceased was mentioned to be traveling in the capacity of a cleaner. When it has to be accepted that he is cleaner, the notional income taken by the Court below, considering that it is not proved that the deceased was a cleaner, cannot be sustained. The law is now well settled that any able bodied person would be able to earn Rs.3,000/- per month. By taking Rs.3,000/- per month as the income of the deceased and by considering that he was a bachelor, half of the income should be deducted towards his personal expenses as per **Sarala Varma Vs. Delhi Transport Corporation**¹. Then, the loss of monthly income would be Rs.1,500/- and loss of annual income would be Rs.18,000/-. Multiplier for the age of 26 years is 17, as per the above ruling. Hence, 18000 x 17 = Rs.3,06,000/- has to be awarded towards loss of future income. Apart from the above,

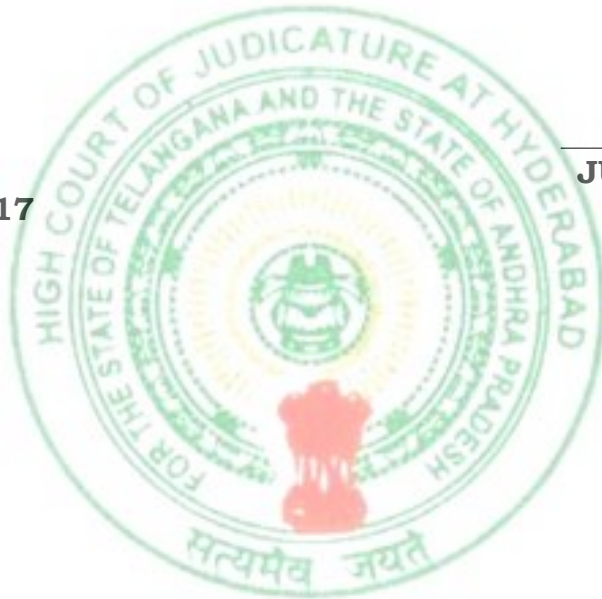
¹ (2009) 6 SCC 121

following the judgment of Constitutional Bench reported in the case of **NATIONAL INSURANCE COMPANY LIMITED Vs. PRANAY SETHI AND OTHERS²**, Rs.15,000/- is awarded towards funeral expenses and Rs.15,000/- towards loss of estate. In all, Rs.3,36,000/- is hereby awarded.

This 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 Court below.

In the result, the appeal is partly allowed with proportionate costs. Miscellaneous petitions, if any, pending consideration, shall stand closed in consequence.

Date: 09.11.2017
LSK



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² MANU/SC/1366/2017