

SMT. JUSTICE T.RAJANI

MACMA. No.2167 of 2006

JUDGMENT:

This appeal is filed by the appellants, who are claimants, before the Court below, assailing the judgment of the Principal District Judge, Ranga Reddy District in O.P. No.140 of 2004 dated 31.03.2006 on the grounds that the Court below erred in not accepting the monthly income of the deceased as Rs.3,500/- per month and erred in taking as Rs.2,000/- per month as his monthly income.

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

A perusal of the judgment of the Court below would show that the income of the deceased was taken as Rs.2,000/- per month and the deceased was stated to be the stone cutter and he was aged 30 years.

The counsel for the appellants placed reliance on ruling of the Apex Court reported in the case of **JITENDRA KHAMSHANKAR TRIVEDI AND OTHERS v. KASAM DAUD KUMBHAR AND OTHERS**¹ in support of his contention that at least Rs.3,000/- has to be taken as the income of the deceased as in the cited case, for a woman, Rs.3,000/- was taken as the income. There cannot be any quarrel with the said contention as in the least Rs.3,000/- can be taken as the

¹ (2015) 4 Supreme Court Cases 237

income of the deceased, who is stated to be a stone cutter aged 30 years. The Court below adopted multiplier 18. The counsel for the respondent contends that appropriate multiplier would be 17 as per the ruling of the Apex Court in **SARALA VERMA AND OTHERS v. DELHI TRANSPORT CORPORATION AND ANOTHER**². Hence, assessing the compensation based on the income as Rs.3,000/- would result in loss of Rs.2,000/- per month to the claimants as 1/3rd has to be deducted towards personal expenses of the deceased. Rs.24,000/- would then be the loss of annual income to the claimants. The same multiplied by the appropriate multiplier 17, which comes to Rs.4,08,000/- (2000 x 12 x 17). The learned counsel for the appellant while placing reliance in the case of **JITENDRA** (one supra) submitted that Rs.1,00,000/- ought to have been awarded towards loss of consortium instead Rs.15,000/-. The Apex Court in the ruling one supra relied on the ruling made by the Apex Court in the case of **RAJESH v. RAJBIR SINGH**³ which is rendered by the three Judges wherein it was held Rs.1,00,000/- should be awarded towards loss of consortium. Hence, the same needs to be awarded in this case also. Then the total award comes to Rs.5,08,000/-, which is more than the claimants' claim, hence, the same is restricted to Rs.5,00,000/-.

² 2009 ACJ 1298 SC

³ (2013) 9 SCC 54

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 Court below.

In the result, the appeal is allowed with proportionate costs. As a sequel, miscellaneous petitions, if any, stand closed.

JUSTICE T.RAJANI

Date: 07.07.2017
LSK

