SMT JUSTICE T. RAJANI

MACMA.No.3733 of 2011

JUDGMENT:

This appeal is preferred by the appellants, who are the claimants before the Court below, assailing the judgment of the II Additional Chief Judge, City Civil Court, Hyderabad in OP.No.1133 of 2006 dated 07.06.2008 on the grounds that the Court below did not award adequate compensation; erred in taking the income of the deceased as Rs.15,000/- per month, as stated in the claim petition by the claimants and failed to consider that the deceased would have earned more than Rs.40,000/- per month in future.

2. Heard both sides.

3. While the counsel for the appellant contends that the Court below failed to consider the future prospects of the deceased, the counsel for the respondent-insurance company takes the Court through the judgment of the Court below wherein the Court below considered future prospects at para 5(iii) under issue No.2. The Court below took the earnings of the deceased as Rs.8,000/- by relying on the income tax return and in order to add future prospects of the deceased, it took into consideration the driving licence of the deceased to drive heavy vehicle and observed that he would earn Rs.3,000/- more in future and ultimately took Rs.10,000/- as the income of the deceased. Hence, the discussion on the said aspect would clearly imply that the Court below has considered the future prospects of the

deceased also. Hence, this Court is not inclined to make any assessment with regard to the future prospects.

4. However, the contention of the counsel for the appellants that deduction of 1/3rd made from the income of the deceased cannot be sustained can be considered, as the claimants are 11 in number and as per the decision of the Supreme Court in SARLA VERMA v. DELHI TRANSPORT CORPORATION[1] 1/5th has to be the deduction. After deducting 1/5th, the loss of monthly income would come to Rs.10,000/- - (Rs.10,000/- x 1/5 = Rs.2,000/-) = Rs.8,000/- and the loss of annual income would come to Rs.8,000/- x 12 = Rs.96,000/-. The multiplier relevant for the age of the deceased, being 47 years, as per the decision of the Supreme Court in SARLA VERMA's case (1 supra) is '13' and the same is adopted by the Court below. Hence, the loss of future income to the claimant would come to Rs.96,000/- x 13 = Rs.12,48,000/-. Apart from the above, following the latest decision of the Supreme Court in NATIONAL INSURANCE CO. LTD. v. PRANAY SETHI [Special Leave Petition (Civil) No.25590 of 2014 and batch dated 31.10.2017], Rs.40,000/- is awarded to the first claimant under the head loss of consortium, Rs.15,000/- is awarded under the head loss of estate and Rs.15,000/- is awarded under the head funeral expenses. Hence, the claimants are entitled to total compensation of Rs.12,48,000/- + Rs.40,000/- + Rs.15,000/- + Rs.15,000/- = Rs.13,18,000/-.

5. Hence, the award of the Court below is modified as indicated above, with proportionate costs. The apportionment of compensation

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[1] (2009) 6 SCC 121

shall be in the terms of apportionment made by the Court below. The award shall relate back to the date of decree and the compensation awarded shall carry the interest at the rate and from the date specified by the Court below.

The civil miscellaneous appeal is allowed in part. As a sequel, the miscellaneous applications, if any pending, shall stand closed.

T. RAJANI, J

December 14, 2017
DSK