SMT JUSTICE T. RAJANI

MACMA.No.441 of 2008

JUDGMENT:

This appeal is preferred by the appellants, who are the claimants before the Court below, assailing the judgment of the IV Additional District Judge, Visakhapatnam in OP.No.206 of 2006 dated 26.11.2007 with regard to the inappropriate multiplier that was adopted by the Court below.

2. Heard counsel for the appellant. Counsel for the respondent did not appear.

3. Though several grounds were urged in the grounds of appeal, the counsel for the appellant, importantly, argued on the aspect of multiplier. The contention is that the multiplier relevant to the age of the deceased ought to have been adopted, per contra, the Court below adopted the multiplier relevant to the age of the mother of the deceased.

4. Learned counsel for the claimants, with respect to adopting multiplier, submitted that the multiplier relevant for the age of the deceased has to be taken by following the ratio of the Supreme Court in MUNNA LAL JAIN v. VIPIN KUMAR SHARMA[1], wherein the three judge bench was in full agreement with the decision of the Supreme Court in SARLA VERMA v. DELHI TRANSPORT CORPORATION[2] that in the case of death claim, the multiplier to be applied is with reference to the age of the deceased only and as such, in the present case, '18' would be relevant multiplier for the age of the deceased.

---

[1] (2015) 6 SCC 347
[2] (2009) 6 SCC 121

5. The Court below took Rs.15,000/- per annum as the income of the deceased. The Court below considered the evidence of P.W.3, Manager in Shankar Automobiles, who spoke that the deceased was, allegedly, working as Supervisor and that Rs.4,000/- per month apart from Rs.1,000/- per month as incentive was paid as salary to the deceased. P.W.4, an LIC Agent, was also examined, who spoke about the salary of the deceased being Rs.3,000/- per month on an average and about the deceased working as sub-agent. The Court below considered that except filing Ex.A8, no documentary evidence was placed to prove the income of the deceased and that there was not even a scrap of paper filed with regard to the income, which the deceased was making through insuring motor vehicles. It also considered that the record pertaining to the payment of salary is not filed by P.W.3 and holding that since the best evidence is suppressed, it refused to rely on the salary certificate and arrived at a notional income of Rs.15,000/- per annum.

6. In the considered opinion of this Court, even if the salary certificate was not believed, the Court below ought to have believed that the deceased had good potential of employment and that there were two witnesses who came forward and testified to the fact that the deceased was a good worker. However, since the evidence of P.W.3 is not certain with regard to the deductions that are to be made from the salary of the deceased and since he does not bring any record to support his evidence, the salary, as stated by him, may not be accepted; but, however, in the least, Rs.3,000/- can be taken as the monthly income of the deceased. Following the ratio in MUNNA LAL

JAIN's case (1 supra), 50% of the income is deducted towards the personal expenditure of the deceased, hence, Rs.1,500/- would be the loss of monthly income and Rs.18,000/- would be loss of annual income to the claimants. Hence, the claimants are entitled to compensation of Rs.18,000/- x 18 = Rs.3,24,000/- towards loss of dependency. The plea with regard to interest at 6% per annum being on the low side cannot be considered as there is no evidence lead with regard to the then prevailing bank rates of interest.

7. Eventually, the learned counsel for the claimants, by placing reliance on the decision of the Supreme Court in RAJESH v. RAJBIR SINGH[3], submitted that the Court below erred in awarding only Rs.5,000/- towards funeral expenses, it ought to have awarded Rs.25,000/- as was directed in the aforesaid decision. Taking into consideration the decision in RAJESH's case (3 supra) Rs.25,000/- is substituted for Rs.5,000/- towards funeral expenses. The amount of Rs.15,000/- awarded towards loss of estate is sustained. It is also submitted that the Court below did not award any amount towards loss of love and affection to the parents of the deceased. Taking guidance from the decision above, Rs.1,00,000/- is awarded towards loss of love and affection to each of the parents i.e. claimants 1 and 2 and Rs.25,000/- is awarded towards loss of love and affection to claimant No.3, though it is not specifically laid down that parents would also be entitled for such amounts. The deceased being an unmarried person, parents would have future hopes, all of which are dashed to the ground by his sudden death. The said loss needs to

[3] (2013) 9 SCC 54

be compensated by awarding adequate amounts. There cannot be any reason to hold the parents at an inferior position to that of the wife and children of a married person. In all, the claimants are entitled to total compensation of Rs.3,24,000/- (loss of dependency) + Rs.15,000/- (loss of estate awarded by Court below) + Rs.25,000/- (funeral expenses) + Rs.2,25,000/- (loss of love and affection) + Rs.10,000/- (transportation awarded by Court below) + Rs.97,000/- (medical expenses awarded by Court below) = Rs.6,96,000/- but the same is restricted to Rs.6,00,000/- as per the claim of the claimants.

8. The award shall relate back to the date of decree and the enhanced compensation amount shall carry interest at the rate specified and from the time indicated in the award by the tribunal below.

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.

T. RAJANI, J

September 4, 2017
DSK