SMT JUSTICE T. RAJANI

MACMA.No.48 of 2008

JUDGMENT:

This appeal is preferred by the appellants, who are the claimants before the Court below, assailing the judgment of the I Additional Chief Judge, City Civil Court, Secunderabad, in M.V.O.P.No.85 of 2005 dated 18.01.2007 on the grounds that the lower Court ought to have assessed the compensation following the Second Schedule of the Motor Vehicles Act, 1988 (for short 'the Act') and award the compensation and that it failed to award compensation under the heads 'loss of estate' and 'funeral expenditure'.

2. Heard counsel for the appellants. Learned counsel for the respondent does not appear.

3. The lower Court observed that the first claimant being major son of the deceased is not a dependant. However, it held that the second claimant, who is unmarried daughter of the deceased, needs female help, and due to the death of her mother (deceased), she is deprived of emotional security for the life. Considering the said facts, the lower Court granted only Rs.1,25,000/-, in lumpsum, as compensation without taking up any scientific calculation.

4. The learned counsel for the appellants relies on the ruling of the Full Bench of this Court in ***Gangaraju Sowmini***

v. Alavala Sudhakar Reddy[1], wherein this Court by relying on the ruling of the Apex Court in ***Manjuri Bera v. Oriental Insurance Company Limited***[2] held that though the claimants are not dependants on the deceased, the legal representatives would be entitled for compensation under no fault liability, apart from other expenses that might have been incurred.

5. However, in the instant case, the second claimant can be considered as dependant apart from being a legal representative. Hence, she would be entitled for compensation, after it is assessed as per law.

6. The deceased being a woman can be assumed as rendering her services to the family and though she was not employed, the value of her services can be conveniently estimated at Rs.3,000/- per month. Out of the said amount, 1/3rd is deducted towards her expenditure and the loss of future income or services to the respondents would be Rs.2,000/- per month and Rs.24,000/- per annum. The age of the deceased at the time of accident was stated to be 48 years and the multiplier relevant for the said age group as per ***Sarla Verma v. Delhi Transport Corporation***[3] is '13'. If the same is applied, it comes to Rs.3,12,000/- (Rs.24,000/- x 13) and the same is awarded under the head 'loss of future income', but the same is restricted to Rs.3,00,000/- which is

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[1] 2016 (2) ALD 226
[2] 2007 ACJ 1279
[3] (2009) 6 SCC 121

the claim made by the claimants. Out of the said amount, the first claimant would be entitled for Rs.1,00,000/- and the second claimant would be entitled for Rs.2,00,000/- as per the apportionment that was made by the Court below. This award shall relate back to the date of decree and the enhanced compensation awarded shall carry interest at the rate specified and from the time indicated in the award by the Court below.

The Civil Miscellaneous Appeal is accordingly allowed with proportionate costs. As a sequel, the miscellaneous applications, if any, shall stand closed.

T. RAJANI, J

Date: 23.10.2017
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