SMT. JUSTICE T.RAJANI

MACMA. No.2426 of 2006

JUDGMENT:

This appeal is filed by the appellants, who are claimants before the Court below, assailing the judgment of the I Additional District Judge, Adilabad passed in O.P. No.733 of 2003 on 14.09.2006 on the grounds that the Court below awarded meager amount of compensation Rs.3,94,000/- as against the claim of Rs.8,00,000/-.

On behalf of the appellants P.Ws.1 to 3 were examined and Exs.A-1 to A-8 were marked. To substantiate the income of the deceased Ex.A-7 and 8, pahani patrika and salary certificate, were filed.

Heard the learned counsel for the appellant. The learned counsel for the respondent did not appear.

A perusal of the judgment of the Court below shows that without any cogent reasons it disbelieved the evidence of P.W.3, Post Master, who categorically stated that the deceased was working in postal department as postman and Ex.A-8, salary certificate, which shows the salary of the deceased as Rs.4,371/- per month. P.W.3 was examined and he testified Rs.4,371/- per month as the salary drawn by the deceased. It was observed by the Court below that the salary certificate was not issued by the P.W.3 and it was issued by his predecessor. That cannot be a reason to discard the evidence of P.W.3 and Ex.A-8. The salary certificate naturally would be issued by the concerned person who works at that relevant point of time and if on the date of giving evidence the said person is not available, the successor in office can very well depose about the same as he would get the control of the entire data on the basis of which his predecessor issued salary certificate. Hence, the monthly salary of the deceased can very conveniently be accepted as Rs.4,371/- as on the date of accident. The same has to be enhanced to another 50% towards future salary of the deceased going by the ratio laid down by the Apex Court in **RAJESH v. RAJBIR SINGH**[1]. Then the future salary of the deceased would come to Rs.6,556/- per month. The number of claimants are five , therefore, going by the ratio laid down by the Apex Court in **SARALA VERMA AND OTHERS v. DELHI TRANSPORT CORPORATION AND ANOTHER**[2] 1/4th has to be deducted towards personal expenses of the deceased. Then the loss of future monthly income of the claimants would be Rs.4,917/- and annual income would be Rs.59,004/-. The multiplier relevant for the age of the deceased, which is stated to be 36 years, as per Sarala Verma (two supra) case is 15. Hence, Rs.59,004 x 15 = Rs.8,85,060/- has to be the loss of future income to the claimants. But, however, considering that the claim of the petition is only Rs.8,00,000/- the same is restricted to Rs.8,00,000/-.

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.

JUSTICE T.RAJANI

Date: 07.07.2017
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1 (2013) 9 SCC 54
2 2009 ACJ 1298 SC