SMT JUSTICE T. RAJANI

MA CMA No.4915 of 2008

JUDGMENT:

This appeal is preferred by the appellants, who are the claimants before the court below, assailing the judgment, dated 31.07.2003, of the Motor Accidents Claims Tribunal (Principal District Judge), Warangal, passed in M.V.O.P.No.1028 of 2000, on the grounds that the court below erred in not considering the serious loss caused to the claimants and that it ought to have considered that financial responsibility was being shared by the deceased.

2. Heard both the counsel.

3. A perusal of the judgment impugned would show that the court below, by considering the claimants are not dependants of the deceased, awarded only Rs.50,000/- towards no fault liability. But even if the claimants are not dependants on the deceased, they are not disputed to be the legal heirs of the deceased. If the deceased has been making earnings, it would definitely be added to the estate of the deceased, for which the legal heirs would be entitled to. Hence, the finding of the court below that since the claimants are not the dependants of the deceased, they would not be entitled for the compensation beyond Rs.50,000/-, is not sustainable. However, the deceased, according to the case of the claimants, is an agriculturist. But absolutely no evidence is adduced to prove the said fact and also the earnings of the deceased, which are stated to be

Rs.3,000/- per month. The law is well settled that the services of the women have to be taken as Rs.3,000/- per month if she is not proved to be an earning person. If a woman is capable of rendering services to the family, worth Rs.3,000/-, there need not be any reason to consider that she would not be taking up any avocation for the purpose of making earnings. Hence, by any manner of understanding, the income of the deceased can be taken as Rs.3,000/- per month. But since the deceased did not have any dependants, half of the said income can be considered as being expended by her for her own expenses. Hence, Rs.1,500/- can be considered as loss of future monthly income and Rs.18,000/- can be considered as loss of annual income to the claimants. The age of the deceased, as shown in the PME Report, is 50 years. The multiplier relevant for the age of the deceased is '11'. Hence, Rs.1,98,000/- {Rs.18,000/- X 11} would be the loss of future income to the petitioners.

4. Apart from the above, Rs.15,000/- towards funeral expenses and Rs.15,000/- towards loss of estate to the claimants is awarded as per the ruling of the three judges' Judgment reported in *National Insurance Company Ltd., vs. Pranay Sethi* in Special Leave Petition (Civil) No.25590 of 2014. In all, the claimants are entitled to enhanced compensation of Rs.2,28,000/- {i.e., Rs.1,98,000/- (loss of future income + Rs.15,000/- (funeral expenses) + Rs.15,000/- (loss of estate)}.

5. The plea of the respondent's counsel to interfere with the interest rate cannot be considered for two reasons

viz., 1) As no appeal is preferred by the respondent and 2) No evidence is adduced with regard to the prevailing rates of interest of the banks at the relevant point of time.

6. To the extent indicated above, the appeal is partly allowed and the claimants are entitled to enhanced compensation of Rs.2,28,000/- with proportionate costs. The rest of the award is left un-interfered with. 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.

As a sequel, the miscellaneous applications, if any pending, shall stand closed.

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T. RAJANI, J

November 13, 2017
LMV