

THE HON'BLE SMT JUSTICE T.RAJANI

M.A.C.M.A. No.283 OF 2008

JUDGMENT:

This appeal is preferred by the appellants, who are the claimants in the lower Court, assailing the Award of the Court of the Motor Accident Claims Tribunal-cum-II Additional District Judge, Kadapa at Proddatur, dated 18.10.2007, passed in M.V.O.P.No.141 of 2004, on the ground that the income taken by the Tribunal is less.

The Tribunal, considering the evidence on record took the annual income of the deceased as Rs.3,000/- (Rupees three thousand only) per month. The counsel for the appellants contend that the income of the deceased has to be taken as Rs.5,000/- (Rupees five thousand only) per month in the least. The appellants did not place any evidence with regard to the income. Ex.A.8, which is a xerox copy of the Pattadar Pass Book (PPB) shows that Acs.20.00 of land was owned by the deceased. In the opinion of this Court, the loss to the petitioners would be only the loss of service that the deceased has been rendering in cultivating the said land. The land is still available to the petitioners for cultivating the same. Hence, the loss of services have to be valued, which in the opinion of this Court, can be Rs.3,000/- (Rupees three thousand only) per month. As the services include, the service which the deceased has been rendering for his benefit also, based on the ruling of the apex Court in **Sarla Verma vs. Delhi Transport Corporation**¹, considering that the dependants are five in number, one-fourth can be taken as the deduction from the said amount, and as such, in this case, the value of loss of service would come to Rs.2,250/- (Rupees two thousand two hundred and fifty only) per month and Rs.27,000/- (Rupees twenty seven thousand only) per annum. The multiplier applied by the trial Court is 13, but as per the above ruling, the

¹ (2009) 6 SCC 121

multiplier for the age of the deceased, which is 45 years, is 14 and hence, the amount would be Rs.3,78,000/- (Rupees three lakh and seventy eight thousand only). The lower Court also did not award compensation under the head 'loss of services and loss of love and affection' to the petitioners.

The counsel for the appellants rely on the ruling of **Rajesh vs. Rajbir Singh**², wherein the consortium of Rs.1,00,000/- (Rupees one lakh only) was awarded in case of the deceased, who was aged around 33 years, whereas the age of the deceased in this case is 45 years. Hence, the amount proportionate to the age of the deceased in this case is Rs.60,000/- and as such, Rs.60,000/- (Rupees sixty thousand only) is awarded towards loss of consortium. In the same ruling, the apex Court awarded Rs.25,000/- (Rupees twenty five thousand only) towards funeral expenses, which can be awarded in this case also. For the relief of loss of love and affection, the apex Court awarded Rs.1,00,000/- each to the other petitioners, which can be taken as Rs.60,000/- in this case. Hence, total amount of Rs.5,23,000/- (Rupees five lakhs and twenty three thousand only) is awarded.

In the result, the appeal is **partly** allowed and the Judgment of the lower Court is modified and the amount awarded by the Court below is enhanced to Rs.5,23,000/- (Rupees five lakhs and twenty three thousand only). The award shall relate back to the date of decree of the lower court and the enhanced amount shall carry interest at the rate and from the time as ordered by the lower court.

Consequently, miscellaneous petitions pending if any, in the appeal, shall stand disposed of.

JUSTICE T.RAJANI

23.02.2017

pln

² (2013) 9 SCC 54