SMT JUSTICE T. RAJANI

MACMA.No.1170 of 2008

JUDGMENT:

This appeal is preferred by the appellants being aggrieved by the judgment of the I Additional District Judge, Guntur in OP.No.633 of 2001 dated 18.01.2008. According to them, the Court below did not award adequate compensation; it took the earnings of the deceased as Rs.7,000/- instead of Rs.7,900/-, which is reflected by the salary certificate and it also erred in taking the loss of dependency per month as Rs.4,500/- instead of Rs.4,900/- and it also granted less amount toward loss of consortium and loss of estate.

2. Heard counsel for the appellant. Respondent counsel is absent.

3. The judgment of the Court below reflects that it did not believe the salary certificate, which showed the income of the deceased as Rs.7,900/-. It observed that P.W.1 stated the basic pay of the deceased as Rs.7,150/- while the basic pay mentioned in the salary certificate is Rs.7,900/-. But, however, the Court below took Rs.7,000/- as the income of the deceased per month. There is no reason for not believing either of the two i.e. salary certificate or evidence of P.W.1. When the Court takes the amount reflected in Ex.X1 and the evidence of P.W.1, as the basis to arrive at Rs.7,000/-, there need not be any reason not to take Rs.7,150/- as the basic pay of the deceased, which is stated by P.W.1.

4. The Court below after deducting 1/3rd towards personal expenditure of the deceased, arrived at a figure of Rs.4,666/- and

rounded it off to Rs.4,500/- instead of rounding it to the highest figure, which would be the right approach, the claim being under beneficial legislation. Hence, taking the monthly income of the deceased as Rs.7,150/- and by deducting 1/3rd, the loss of monthly income would be Rs.4,767/- and the loss of annual income would be Rs.57,204/-. The multiplier adopted by the Court below is '8' but as per the decision of the Supreme Court in SARLA VERMA v. DELHI TRANSPORT CORPORATION[1] the multiplier to be adopted is '9'. Hence, the loss of dependency comes to Rs.57,204 x 9 = Rs.5,14,836/-

5. The Court below awarded Rs.2,000/- towards funeral expenses. As per the decision of the Supreme Court in RAJESH v. RAJBIR SINGH[2] it has to be Rs.25,000/-. Hence, the same is awarded. The Court below awarded only Rs.5,000/- towards loss of consortium of the first claimant. As per the above decision, Rs.1,00,000/- is awarded towards loss of consortium. No amount is awarded to claimants 2 and 3 they being major. The Court below awarded Rs.11,000/- towards loss of estate, which needs no interference.

6. Hence, the claimants are entitled to total compensation of Rs.5,14,836/- (loss of dependency) + Rs.25,000/- (funeral expenses) + Rs.1,00,000/- (loss of consortium) + Rs.11,000/- (loss of estate) = Rs.6,50,836/-, which is restricted to Rs.6,00,000/-, as claimed by the claimants. 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.

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[1] (2009) 6 SCC 121
[2] (2013) 9 SCC 54

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.

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T. RAJANI, J

September 14, 2017
DSK