SMT. JUSTICE T.RAJANI

MACMA. No.281 of 2008

JUDGMENT:

This appeal is preferred by the appellants, who are claimants before the Tribunal, aggrieved by the judgment dated 07.05.2007 passed in O.P. No.1441 of 2003 by the Motor Accidents Claims Tribunal (for brevity "the Tribunal") on the grounds that the Tribunal has failed to appreciate the oral and documentary evidence on record and awarded meager amount of compensation; that the Tribunal ought to have appreciated that on account of the death of the deceased, his family has lost the bread winner and ought to have awarded the compensation as claimed by the appellants; that the Tribunal has also failed to award a compensation of Rs.15,000/- towards loss of estate of the deceased; the reasoning of the Tribunal in awarding meager amount of compensation is totally untenable and unsustainable.

A perusal of the award of the Tribunal shows that the income of the deceased was taken as Rs.4,000/- per month as a Tractor driver. Evidence adduced by the appellants, with regard to the income and avocation of the deceased are in the form of Exs.A-7 and A-8, copy of pattedar pass book and title deed pass book, respectively, but the Tribunal could see that the above documents pertain to the father of the deceased, who was examined as P.W.1 and the owner of the land mentioned therein, which is an extent of Acs.2.33 guntas. Exs.A-5 and A-9, true copy and original driving licence of the deceased, respectively, were taken as basis to conclude that the deceased was a driver of a Tractor. There is no additional material placed before the Court to see that the deceased was an agriculturist and owned agricultural land. As rightly observed by the Tribunal Exs.A-7 and A-8 are only documents to prove the holding of the agricultural land by father of the deceased, which is still available for the father of the deceased. Hence, there is no error in the approach of the Tribunal in taking the income of the deceased as Rs.4,000/- per month as a Tractor driver.

The learned counsel for the appellants contends that multiplier adopted by the Tribunal as 17 is erroneous and he contends that for the age group of 25 multiplier 18 is applicable. He further contended that going by the number of claimants i.e. more than three, 1/4th deduction has to be taken towards personal expenses as against 1/3rd taken by the tribunal. In support of his contentions, he placed reliance on the case of **SARALA VERMA AND OTHERS Vs. DELHI TRANSPORT CORPORATION AND ANOTHER**[1].

The learned counsel appearing for the respondents does not raise any objection for the above contentions advanced by the learned counsel for the appellants.

In view of the above, this Court is of the view that appropriate multiplier for the age group of 25 is 18. After deducting 1/4th from the income of the deceased, i.e. from Rs.4,000/-, which is arrived at Rs.3,000/- per month x 12 = Rs.36,000/- per annum x 18 = Rs.6,48,000/- would be the compensation towards loss of future income. Hence, the compensation awarded by the Tribunal i.e. Rs.5,44,000/- is enhanced to Rs.6,48,000/-.

Further, the learned counsel for the appellants placed reliance on the case of **RAMILABEN CHINUBHAI PARMAL Vs. NATIONAL INSURANCE COMPANY**[2] and contends that consolidated amount under conventional heads has to be granted. The judgment of the Tribunal shows that Rs.20,000/- was awarded under conventional heads. The

[1] 2009 ACJ 1298 SC
[2] 2014 ACJ 1430 SC

learned counsel for the appellants by placing reliance on the judgment two supra, seeks enhancement to Rs.50,000/-.

Insofar as the aspect of conventional heads is concerned, taking into consideration the ruling of the Apex Court two supra, this Court is of the view that ends of justice would be met if an amount of Rs.50,000/- is granted. Accordingly, Rs.50,000/- is granted under conventional heads. In all, Rs.1,34,000/- (Rs.1,04,000+30,000) is awarded in addition to the amount already awarded by the Tribunal.

In the result, the appeal is partly allowed by modifying the judgment of the Tribunal by enhancing the award amount by Rs.1,34,000/- (Rupees one lakh thirty four thousand only).

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 Tribunal. The apportionment of the enhanced amount would be in the same ratio as awarded by the Tribunal.

In the result, the appeal is partly allowed with proportionate costs.

JUSTICE T.RAJANI

Date: 24.03.2017
LSK