

SMT JUSTICE T. RAJANI

M.A.C.M.A. No.315 of 2008

JUDGMENT:

This appeal is preferred by the appellants, who are the claimants before the Court below, assailing the judgment of the V Additional District Judge, Tirupati in M.V.O.P. No.281 of 2005 dated 21.08.2007 on the ground that the lower Court erred in taking the monthly income of the deceased M.Madhusudana Rao as Rs.4,000/- and did not award adequate compensation.

2. Heard both the counsel.

3. At the hearing, learned counsel for appellants contends that the appeal is restricted to only the deduction made towards personal expenses of the deceased and the award made towards funeral expenses and loss of consortium to the 1st claimant.

4. The claimants are five in number and as per the ruling of the Apex Court *Sarla Verma vs Delhi Transport Corporation*¹, the deduction towards personal expenses has to be 1/4th, but in this case, the Court below deducted 1/3rd towards personal expenses.

5. As can be seen from the judgment of the lower Court, Rs.48,000/- is considered as loss of annual income to the claimants

¹ AIR 2009 SC 3104

and after deduction of $1/4^{\text{th}}$ from the same, the loss of dependency comes to Rs.36,000/-.

6. The judgment of the lower Court shows that though it deducted $1/3^{\text{rd}}$ from the income of the deceased, it arrived at a figure which amounts to only deduction of $1/4^{\text{th}}$. Hence the same need not be interfered with.

7. The other contentions of learned counsel for appellants with regard to inadequacy of compensation under the heads of funeral expenses, loss of consortium to the 1st claimant have to be accepted. As per the ruling of the Apex Court in *Rajesh vs Rajbir Singh*², Rs.25,000/- is to be awarded towards funeral expenses and Rs.1,00,000/- should be awarded towards loss of consortium. The lower Court did not award any amount towards funeral expenses but awarded only Rs.15,000/- towards loss of consortium.

8. Hence, in all, the claimants are entitled to an enhanced compensation of Rs.1,10,000/- and the rest of the award is left uninterfered 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.

² 2013 ACJ 1403 (SC)

The civil miscellaneous appeal is allowed in part with proportionate costs. As a sequel, the miscellaneous applications, if any, shall stand closed.

T. RAJANI, J

Date:05.10.2017
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