SMT JUSTICE T.RAJANI

M.A.C.M.A.No.311 of 2008

ORDER:

This appeal is preferred by the appellants, who are claimants before the court below, assailing the judgment of the II Additional Metropolitan Sessions Judge-Cum-XVI Additional Chief Judge, Hyderabad in O.P.No.2212 of 2004 dated 10.05.2007 on the grounds that the court below took the notional income of the deceased as Rs.15,000/- per annum and applied multiplier '11' by considering the age of the father of the deceased, instead of applying '15', which is relevant for the age of the mother of the deceased.

Heard the learned counsel for the appellants.

Though in the grounds of appeal learned counsel for appellants raised a ground about applying the multiplier relevant for the age of the mother of the deceased, at the hearing, by taking the help of ruling reported in *KISHAN GOPAL AND ANOTHER Vs. LALA AND OTHERS*[1] contends that the multiplier relevant for the age of the deceased has to be taken into consideration.

The Hon'ble Supreme Court in the above said ruling considered the earlier cases, which were decided on the same aspect including the case of *LATA WADHWA Vs. STATE OF BIHAR*[2], wherein Rs.24,000/- per annum was taken as the national income of the deceased. The deceased in that case was aged only ten years

[1] (2014) 1 Supreme Court Cases 244
[2] (2001) 8 SCC 197

but in the evidence it came forth that the said boy was assisting the parents in their agricultural operations, which was an undisputed fact.

In this case, the age of the deceased is 22 years. Hence, there need not be any hesitation to accept that he was assisting his father in doing business of binding work.

The Apex Court in the above said ruling took the notional income of the deceased at Rs.30,000/- per month and without making any deductions it made calculation by applying multiplier suitable for the age of the deceased and awarded compensation. The multiplier adopted by the Court below is 11, which is appropriate for the age of the father of the deceased but the law now settled is that the multiplier relevant for the age of the deceased has to be taken, which is 18 as per the decision of the Supreme Court in SARLA VERMA v. DELHI TRANSPORT CORPORATION[3]. Hence, Rs.30,000/- x 18 = Rs.5,40,000/- is the amount that can be awarded towards loss of future income.

Apart from the above, Rs.50,000/- is awarded under conventional heads towards loss of love and affection, funeral expenses etc., as per the decision of the Apex Court in *KISHAN GOPAL's* case (1 supra).

Hence, in all, the appellants are entitled to total compensation of Rs.5,40,000/- + Rs.50,000/- = Rs.5,90,000/-.

[3] (2009) 6 SCC 121

The appellants claimed compensation of Rs.5,00,000/-. The awarded amount exceeds the claim amount of Rs.5,00,000/-. However, following the judgment of the Supreme Court in RAJESH v. RAJBIR SINGH[4], the whole amount is awarded and the appellants are directed to pay the differential court fee on the excess amount.

The award shall relate back to the date of decree and the enhanced compensation amount shall carry interest at the rate specified and from the time indicated in the award by the court below.

In the result, the appeal is allowed. No order as to costs. Miscellaneous petitions, if any, pending, shall stand closed.

T.RAJANI, J

Dt: 15.09.2017
Prv

HIGH COURT OF JUDICATURE AT HYDERABAD FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
सत्यमेव जयते

[4] (2013) 9 SCC 54

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Prv