SMT. JUSTICE T.RAJANI

MACMA Nos.24 of 2008 and 3073 of 2007

COMMON JUDGMENT:

MACMA. No.24 of 2008 is preferred by the appellants, who are claimants before the Court below, assailing the order of the I Additional Chief Judge, Secunderabad passed in MVOP. No.27 of 2005 on 23.07.2007. MACMA. No.3073 of 2007 is preferred by the National Insurance Company Limited, who is the 2nd respondent in the said MVOP assailing the same judgment.

The appeal preferred by the claimants assails the order of the Court below on the grounds of inadequacy of the compensation and on the inappropriateness of the multiplier. The appeal preferred by the Insurance Company is on the ground of fixing liability on the Insurance Company in spite of the deceased being a pillion rider and also on the ground of the excessive compensation awarded, by taking the income of the deceased as reflected by the salary certificate, instead of Rs.3,000/- per month.

Both the appeals are disposed of by this common judgment as the same arise out of same order.

The contention of the learned counsel for the claimants is that the multiplier adopted by the Court below is the one relevant for the age of the parents but it should be the one relevant to the age of the deceased. The age of the deceased is proved to be 32 years, hence, the multiplier relevant for his age is 16 as per ***SARALA VERMA Vs. DELHI TRANSPORT CORPORATION[1].*** Law is now well settled that the multiplier relevant for the age of the deceased has to be taken.

---

[1] 2009 ACJ 1298 (SC)

The contention of the Insurance Company as regards the income of the deceased is that Ex.A-1 and A-2, FIR and Complaint, respectively, would show that the deceased joined the first respondent and was working with him for a monthly salary of Rs.3,000/- and hence, the amounts reflected in the Ex.A-65, appointment letter, cannot be considered. The Court below dealt with the said contention in a sound manner, elaborately and arrived at a conclusion that the salary that is evidenced by Ex.A-65, can be taken for fixing the loss of income of the claimants. It observed that the deceased was working under the 1st respondent only in order not to waste time before joining his duty at Pune. There is absolutely no reason to defer with the said reasoning. Hence, the salary, evidenced by Ex.A-65, i.e. Rs.16,832/-, can be held to be the monthly income of the deceased. From the said salary 50% has to be deducted towards the personal expenses of the deceased as he is an unmarried person. The said principle is laid down by the Supreme Court in the case one supra.

Hence, Rs.8416/- would be loss of monthly income and Rs.1,00,992/- would be the loss of annual income to the claimants. The same multiplied with 16 comes to Rs.16,15,872/- hence, the same is awarded as loss of future income to the claimants. Apart from that, Rs.50,000/- is awarded as conventional sum towards the other heads. Hence, in all an amount of Rs.16,65,872/-, which can be rounded off to Rs.16,66,000/-, is awarded to the claimants.

Regarding the liability of the Insurance Company for the death of the deceased, who is a pillion rider the order of the Court below can be upheld on the said aspect, as it has taken up elaborate discussion on the same. The policy is proved to be a comprehensive policy and basic premium was paid to cover the risk of a passenger on the two wheeler, who can be no other than the pillion rider. The evidence of RW.1 wherein, in the cross-examination he clarified that he took the comprehensive policy to the vehicle, was well considered. Hence, there need not be any interference, with the order of the Court below, as regards the fixing of liability on the Insurance Company.

In the result, the order of the Court below is set aside and the compensation of Rs.16,66,000/- is awarded to the claimants. The enhanced compensation shall also be distributed in the same proportion as the earlier compensation was distributed between the claimants.

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 Court below.

With the above, MACMA. No.24 of 2008 that was preferred by the claimants is allowed in part with proportionate costs and MACMA. No.3073 of 2007 that was preferred by the Insurance Company is dismissed.

JUSTICE T. RAJANI

Date: 20-10-2017
LSK