

SMT JUSTICE T. RAJANI

M.A.C.M.A. No.115 of 2008

JUDGMENT:

This appeal is preferred by the appellants, who are the claimants before the Court below being not satisfied with the judgment of the III Additional Chief Judge, City Civil Court, Hyderabad in O.P. No.2597 of 2004 dated 07.12.2006. The grounds on which the appeal is filed are that the Court below took the income of the deceased only as Rs.3,000/- per month as against the evidence of PW.3, who stated that it is Rs.5,000/- per month, that the multiplier of 16 ought to have been adopted instead of 12.79 and that the Court below did not award adequate compensation under the heads, loss of consortium and funeral expenses.

2. Heard learned counsel for appellants. The learned counsel for the respondent does not appear.

3. Learned counsel for appellants contends that the income of the deceased though stated to be Rs.5,000/- per month by PW.3, the Tribunal did not accept the same, considering that the evidence of PW.3 is not supported by any registers.

4. A perusal of the evidence of PW.3 shows that there was a sale register and ledger maintained by him but the same were not

produced by him. Hence, without any supporting registers, which are admittedly maintained, the salary certificate issued by him, which was marked as Ex.A3, cannot be relied upon and the approach of the lower Court in not believing Ex.A3 due to lack of supporting registers cannot be found fault with. Hence, the income as taken by the lower Court can be accepted as correct. However, the contention of the learned counsel for appellants that the multiplier of 12.79 which was adopted by the lower Court following the decision of this Court in *Bhagavandas vs Mohd. Arif*¹ needs to be met with. The multiplier relevant for the age of the deceased, which is 40 years is to be taken as per law. The appropriate multiplier for the age of deceased is '14' as per the ruling of Apex Court in *Sarla Verma vs Delhi Transport Corporation*². After deducting 1/3rd towards personal expenses, the loss of dependency comes to Rs.3,36,000/- (Rs.24,000/- X 14) and the same is substituted for Rs.3,06,960/- which is awarded by the lower Court. Apart from that, Rs.25,000/- is awarded towards funeral expenses, Rs.1,00,000/- towards loss of consortium and Rs.1,00,000/- to each of the petitioners 2 and 3 under the head of loss of love and affection following the ruling of the Apex Court in *Rajesh vs Rajbir Singh*³.

¹ 1987 ACJ 1052

² 2009 ACJ 1298

³ 2013 ACJ 1403 (SC)

5. Hence, in all, the claimants are entitled to an enhanced compensation of Rs.6,61,000/- 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.

6. Accordingly, the appeal is partly allowed with proportionate costs. As a sequel, the miscellaneous applications, if any, shall stand closed.

Date:05.10.2017
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T. RAJANI, J

