

SMT JUSTICE T.RAJANI

M.A.C.M.A.NOs.4104 OF 2008 AND 2697 OF 2009

COMMON JUDGMENT:

MACMA.No.2697 of 2009 is preferred by the appellant who was the second respondent before the Court below while MACMA.No.4104 of 2008 is preferred by the claimants therein. The appellant shall be referred as second respondent and claimant, respectively, hereafter. Both the appeals are filed with regard to quantum. While the second respondent questions the quantum on the basis of exorbitancy, the claimants contend that the quantum is not adequate.

Heard both the counsel.

Counsel for the second respondent raised only one objection with regard to the award made by the Court below i.e. with regard to the multiplier adopted by the Court below. The age of the deceased in this case is 42 years. As per **Sarla Verma and Others v. Delhi Transport Corporation**¹, multiplier '14' has to be applied. But the Court below adopted '15' as multiplier. On the other hand counsel for the claimants submits that the income of the deceased was taken only as Rs.2,000/- per month, which is contended as meagre. This Court also agrees with the said contention, as, any able-bodied person would be able to earn Rs.3,000/-per month in the least. Hence, Rs.3,000/- can be taken as the income per month, without any hesitation. If 1/3rd of the said income is

¹ (2009)6 SCC 121

deducted towards personal expenditure, Rs.2,000/- would be loss of income per month and Rs.24,000/- (Rs.2,000/- X 12) per annum. The same multiplied with '14' multiplier, comes to Rs.3,36,000/- (Rs.24,000/- X 14). The said amount is awarded as loss of future income to the claimants.

Apart from the above, considering the contention of the counsel for the claimants, Rs.15,000/- is awarded towards funeral expenses and Rs.15,000/- is awarded towards loss of estate, following the ruling of the Apex Court in **National Insurance Company Ltd. V. Pranay Sethi** {Special Leave Petition (Civil) No.25590 of 2014}.

The claim is only for Rs.3,00,000/- which was the claim as per the amendment brought out to the original claim of Rs.2,00,000/-. But the counsel relied on the decision reported in **Nagappa v. Gurudayal**² to support his contention that the compensation, which is found to be just, can exceed the claim. Hence, Rs.3,66,000/- is awarded towards compensation.

This award shall relate back to the date of the decree and the enhanced compensation shall carry interest at the rate specified and from the time indicated in the award of the Court below. The differential court fee shall be paid by the claimants.

The claimants are entitled to in the same apportionment as made by the Court below.

² 2003 ACJ 12

In the result, MACMA.No.2697 of 2009, preferred by the Insurance Company, is partly allowed to the extent indicated above.

MACMA.No.4104 of 2008, preferred by the claimant, is allowed in part with proportionate costs.

Miscellaneous petitions, if any, pending shall stand closed.

(T.RAJANI, J)

15th November 2017
RRB

