SMT JUSTICE T. RAJANI

MACMA No.963 of 2011

JUDGMENT:

The appeal is preferred by the appellants, who are the claimants before the Court below, assailing the judgments of the II Additional Chief Judge, City Civil Court, Hyderabad in OP.No.1679 of 2009 dated 14.10.2010 on the ground that the Court below did not award adequate compensation.

2. Heard both sides.

3. A perusal of the judgment of the Court below shows that, by considering that the deceased completed first year B.Tech, 10% per year was deducted for the second and third years and ultimately 30% was deducted from the notional income fixed for engineering graduates.

4. Learned counsel for the appellants submits that only 20% should be the deduction, as the deceased was going to the college to write First year examination though has not completed first year B.Tech. Then the loss of monthly income would come to Rs.12,000/- - (Rs.12,000/- x 20% = Rs.2,400/-) = Rs.9,600/-. In support of his contention that even for notional income future hike has to be considered, the counsel relied on a decision of the Supreme Court in V. MEKALA v. M. MALATHI[1] wherein the Supreme Court held that future hike has to be considered even for notional income and 50% was considered as future hike.

[1] 2014 ACJ 1441

5. But in the latest decision of the Supreme Court in NATIONAL INSURANCE CO. LTD. v. PRANAY SETHI [Special Leave Petition (Civil) No.25590 of 2014 and batch dated 31.10.2017] only 40% was allowed towards future hike for a person aged 20 years. The deceased, in this case, being bachelor, half (1/2) of the income has to be deducted towards his personal expenditure.

6. Hence, taking the said future hike into consideration and the deduction towards personal expenditure, the loss of monthly income of the claimant would come to Rs.9,600/- + (Rs.9,600/- x 40% = Rs.2,600/-) = Rs.13,440/- x 1/2 = Rs.6,720/- and the loss of annual would come to Rs.6,720/- x 12 = Rs.80,640/-. The court below adopted the multiplier relevant for the age of the mother of the deceased but as per the decision of the Supreme Court in SARLA VERMA v. DELHI TRANSPORT CORPORATION[2], the multiplier relevant for the age of the deceased should be adopted, which is '18'. Hence, the loss of future income to the claimants would come to Rs.80,640/- x 18 = Rs.14,51,520/-. Apart from the above, following the decision in PRANAY SETHI's case (supra), Rs.15,000/- is awarded towards funeral expenses and Rs.15,000/- is awarded towards loss of estate. Hence, the claimants are entitled to total compensation of Rs.14,51,520/- + Rs.30,000/- = Rs.14,81,520/-, which is rounded off to Rs.14,82,00/-. Though the compensation exceeds the claimed amount, now the law is well settled by virtue of the decision of the Supreme Court in RAJESH v. RAJBIR SINGH[3], wherein it was held that the compensation has to be just and it can

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[2] (2009) 6 SCC 121
[3] (2013) 9 SCC 54

exceed the claimed amount. This Court also in ADAM INDUR MUTEMMA v. RATHOD PEDDITA[4] held that the compensation amount can exceed claimed amount, subject to payment of court-fee.

7. Hence, the claimants would be entitled to total compensation of Rs.14,82,000/- with proportionate costs. The claimants shall pay the differential Court-fee. The apportionment of compensation shall be made in terms of the apportionment made by the Court below. The award of the Court below is modified as indicated above. The award shall relate back to the date of decree and the compensation awarded shall carry the interest at the rate and from the date specified by the Court below.

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

T. RAJANI, J

December 13, 2017
DSK

[4] 2015(4) ALD 585 (LB)