SMT JUSTICE T. RAJANI

MACMA.No.3738 of 2012
and
Cross-Objections (SR).No.43402 of 2017

COMMON JUDGMENT:

The appeal is preferred by the appellants/APSRTC, who are the respondents before the Court below and the cross-objections are filed by the claimants before the Court below, assailing the judgment of the Chief Judge, City Civil Court, Hyderabad in OP.No.1793 of 2006 dated 10.12.2008. The appellants assail the judgment on the ground that the compensation granted is excessive and the claimants/cross objectors assail the judgment on the ground that the compensation is not adequate.

2. Heard both sides.

3. However, now we have the law, which is settled on the aspects, with the help of which the compensation has to be calculated. The judgment of the Court below shows that the salary of the deceased was proved by virtue of the salary certificate and pay slip. The oral evidence of P.W.4 is also available. The deceased was stated to be working in VST as a permanent employee. Hence, there need not be any demur in accepting the salary, as reflected in the salary certificate and the pay slip. The salary shown in Ex.A6 is Rs.15,506/- per month.

4. Though the deductions were taken as Rs.1803/- by the Court below, the counsel for the claimants/cross objectors contends that the statutory deductions are only to the extent of Rs.683/-, which are

towards income tax and professional tax. After deducting the statutory deductions, the monthly salary would be Rs.14,823/-. The counsel relies on 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] to contend that future hike in salary has to be considered and that it has to be 25% as the deceased was aged 42 years. The counsel also submits that since the claimants are seven in number, the deduction towards personal expenditure has to be 1/5th as per the decision of the Supreme Court in SARLA VERMA v. DELHI TRANSPORT CORPORATION[1].

5. Following the aforesaid judgment and after deducting 1/5th towards personal expenditure, the loss of monthly income would come to Rs.14,823/- + (Rs.14,823/- x 25% = Rs.3,705.75/-) = Rs.18,529/- x 1/5 = Rs.14,824/- and the loss of the annual income would come to Rs.1,77,888/-. The multiplier relevant for the age of the deceased as per the decision of the Supreme Court in SARLA VERMA's case (1 supra) is '14'. Hence, the loss of future income would come to Rs.1,77,888/- x 14 = Rs.24,90,432/-. Apart from the above, following the decision in PRANAY SETHI's case (supra) Rs.40,000/- is awarded to the first claimant towards loss of consortium; Rs.15,000/- is awarded towards loss of estate and Rs.15,000/- is awarded towards funeral expenses. Hence, in all, the claimants are entitled to total compensation of Rs.24,90,432/- + Rs.40,000/- + Rs.15,000/- + Rs.15,000/- = Rs.25,60,432/-. Though the compensation granted exceeds the claim amount, now the law is well settled by virtue of the

[1] (2009) 6 SCC 121

decision of the Supreme Court in RAJESH v. RAJBIR SINGH[2], wherein it was held that the compensation has to be just and it can exceed the claimed amount. This Court also in ADAM INDUR MUTEMMA v. RATHOD PEDDITA[3] held that the compensation amount can exceed claimed amount, subject to payment of court-fee.

7. Hence, the award of the Court below is modified as indicated above, with proportionate costs. The claimants shall pay the differential court-fee. The apportionment of compensation shall be in terms of the compensation made by the Court below. 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 dismissed and the cross-objections are allowed. As a sequel, the miscellaneous applications, if any pending, shall stand closed.

T. RAJANI, J

December 15, 2017
DSK

[2] (2013) 9 SCC 54
[3] 2015(4) ALD 585 (LB)