SMT JUSTICE T. RAJANI

MACMA.No.2070 of 2008

JUDGMENT:

This appeal is preferred by the appellants, who are the claimants before the Court below, assailing the judgment of the VII Additional Metropolitan Sessions Judge – cum - XXI Additional Chief Judge, Hyderabad, in OP.No.1469 of 2006 dated 10.07.2007 on the grounds that the Court below did not consider that the deceased would have earned more than Rs.3,00,000/- per annum in addition to 20% bonus every year and that the Court below erred in considering the salary of the deceased as Rs.14,801/- per month and ignored the fact that her salary would have been increased year by year along with other benefits; the Court below also erred in taking the age of the 1st appellant for the purpose of adopting multiplier instead of adopting the multiplier relevant to the age of the deceased, which is '18'; hence, the same needs to be corrected.

2. Heard the counsel for the appellants. Respondent counsel remained absent.

3. The counsel for the appellant contends that the Court below did not consider the future hike in the salary of the deceased and took the salary of the deceased as on the date of her death. The counsel relied on a decision of the Supreme Court in RAJESH v. RAJBIR SINGH[1], wherein it was held that the future prospects of the deceased should be taken as 50% of the salary, when his age is below 40 years. Hence, when 50% is taken as future hike in the salary of the

[1] (2013) 9 SCC 54

deceased, the monthly income comes to Rs.14,801 + Rs.7,400/- (Rs.14801 x 50% = Rs.7400/-) = Rs.22,201/- and out of the said amount 1/3rd has to be deducted towards the personal expenditure of the deceased as the claimants are only two in number in this case, unlike in the case of RAJESH's case (2 supra) where the claimants are four in number i.e. Rs.22,201 – Rs.7400/- = Rs.14,801/-. Then the loss of monthly income would come to Rs.14,801/- and the annual loss of income would come to Rs.14,801/- x 12 = Rs.1,77,612/-. The law is well settled in view of the decision of the Supreme Court in SARLA VERMA v. DELHI TRANSPORT CORPORATION[2] that the multiplier relevant to the age of the deceased has to be adopted. In this case, the age of the claimant is stated to be 29 years. Hence, the multiplier relevant as per SARLA VERMA's case (1 supra) would be '17'. Hence, the loss of future income to the appellants would come to Rs.1,77,612/- X 17 = Rs.30,19,404/-.

4. The counsel for the appellant relied on RAJESH's case (2 supra) in support of his contention that Rs.1,00,000/- should be awarded towards loss of consortium to claimant No.1, Rs.1,00,000/- towards love and affection to the claimant No.2 and Rs.25,000/- towards funeral expenses.

5. Following the said decision, the aforesaid amounts are awarded thereby making total compensation as Rs.30,19,404/- (loss of income) + Rs.1,00,000/- (loss of consortium) + Rs.1,00,000/- (loss of love and affection) + Rs.25,000/- (funeral expenses) = Rs.32,44,404/- with proportionate costs. This award shall relate back to the date of decree

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[2] (2009) 6 SCC 121

and the compensation awarded shall carry interest at the rate specified and from the time indicated in the award by the Court below.

The civil miscellaneous appeal is allowed in part. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

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T. RAJANI, J

October 16, 2017
LMV