

SMT JUSTICE T. RAJANI

MACMA.No.984 of 2008

JUDGMENT:

This appeal is preferred by the appellant, who is the second respondent before the Court below, assailing the judgment of the I Additional District Judge, Karimnagar in OP.No.544 of 2006 dated 10.01.2008 on the grounds that the accident is a result of head on collision between two vehicles, but the claimants did not implead the parties of the other vehicle, hence, the compensation awarded to the extent of the negligence on the part of the other vehicle has to be foregone by the claimants; that the multiplier adopted by the Court below is also erroneous as it has to be '15' as per the decision of the Supreme Court in SARLA VERMA v. DELHI TRANSPORT CORPORATION¹ but '16' was taken as the multiplier and the compensation amount has to be reduced proportionately by taking the multiplier as '15'.

2. Heard both sides.

3. Counsel for the respondents/claimants contends that though the accident is a result of head on collision between two vehicles and the parties of the other vehicle are not added as parties, the law is well settled that in case of composite negligence the claimants have an option to make claim against any of the tortfeasors and lapse in impleading the parties of the other vehicle would not cause any prejudice to the claim of the claimants.

¹ (2009) 6 SCC 121

4. Moreover, the evidence of P.W.2, who is an eye witness to the accident, clearly shows that the accident is a result of the sheer negligence of the first respondent. There is no contra evidence adduced by the respondents in the claim petition to prove otherwise. Hence, the plea of the counsel for the appellant does not find any merit.

5. Counsel for the respondents/claimants further contends that the multiplier adopted by the Court below, which is '16' has to be taken as '15', as the age of the deceased to be more than 35 years.

6. But the Postmortem Examination, Ex.A4, and the salary certificate, Ex.A10, would show the age of the deceased as 30 years. The Court below made an assumption, by considering Ex.A8, B.Com certificate, that a person would be completing the degree at the age of 22 years, which in the considered opinion of this Court is not correct. When there is ample and concrete evidence with regard to the age of the deceased, there is no reason for the Court below to make any assumption with regard to the age of the deceased. Hence, the multiplier '16' seems to be appropriate for the age of the deceased. In view of the above, there is, absolutely, no reason to interfere with the judgment of the Court below.

The civil miscellaneous appeal fails and is accordingly dismissed. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

T. RAJANI, J

November 7, 2017
DSK