

SMT JUSTICE T. RAJANI

MACMA.No.691 of 2008

JUDGMENT:

This appeal is preferred by the appellant, who is the second respondent before the Court below, assailing the judgment of the II Additional District Judge, Vijayawada, in M.V.O.P.No.905 of 2005, dated 12.12.2007, on the ground that the Court below took the income of the deceased as Rs.4,500/- per month, without therebeing any evidence that he was working and the contributory negligence on the part of the driver was also not considered.

2. Heard the learned Standing Counsel for the appellant. Learned counsel for the respondents/claimants does not appear.

3. Learned counsel for the appellant contends that though the contention of the respondents/claimants before the Court below, with regard to the salary of the deceased, was that he was earning Rs.9,000/- per month by doing business in the name and style of 'Balaji Electronics', the Court below took the income of the deceased as Rs.4,500/- per month considering that no evidence was adduced.

4. However, the record shows that Chartered Accountant's statements were filed, but they were not proved by examining the said Chartered Accountant. However, strict rules of evidence cannot be pressed into service while deciding a claim under a beneficial legislation. No contra evidence was adduced by the appellant, disproving the fact that the

deceased was running a shop in NTR Complex, Governorpet, Vijayawada. Hence, *prima facie* it appears that the deceased was running the said shop. In the said circumstances, taking Rs.4,500/- as monthly income of the deceased cannot be said to be excessive. Hence, the contention of the appellant's counsel in that regard cannot be sustained.

5. So also, the other contention, that the deceased contributed to the accident, also does not find favour with this Court, as the appellant did not adduce any evidence to prove the said fact. Only R.W.1, who is the driver of the R.T.C. bus, was examined and he can be considered as a self-serving witness. The facts also show that charge sheet was filed against the driver of the R.T.C. bus alone.

6. In the above circumstances, there cannot be any different view from the view taken by the Court below. Hence, the appeal fails and is accordingly dismissed but without costs.

Pending miscellaneous applications, if any, shall also stand dismissed.

T. RAJANI, J

Date: 23.10.2017
va