SMT JUSTICE T. RAJANI

MACMA Nos.1520 of 2011 and 907 of 2012

COMMON JUDGMENT:

MACMA.No.907 of 2012 is preferred by the appellant-insurance company, who is the second respondent before the Court below, assailing the judgment of the Principal District Judge, Ranga Reddy District in OP.No.139 of 2007 dated 21.06.2011 on the grounds that the Court below erred in holding that the insurance company is liable; the quantum assessed is also not correct as it deducted 1/5th towards personal expenditure, instead of deducting 1/4th towards personal expenditure of the deceased.

2. MACMA.No.1520 of 2011 is preferred by the appellants, who are the claimants before the Court below, assailing the judgment of the Principal District Judge, Ranga Reddy District in OP.No.139 of 2007 dated 21.06.2011 on the ground of inadequacy of compensation, that the salary taken by the Court below is not appropriate and not based on proper appreciation of evidence.

2. Heard both sides.

3. The counsel for the appellant-insurance company contends that there is variation in the time of the accident, in the chief examination and cross-examination of P.Ws.1 and 2. In the chief examination it is stated as 11.30 AM and in the cross-examination it is stated as 7.00 AM.

4. The chief examination is in the form of chief affidavit, hence, it can be considered as typographical error and the same shall be not allowed to defeat the claim under the beneficial legislation. As regards the compensation, the Court below took the salary of Rs.5,000/-, by considering that no supporting documents are filed for the evidence of the witnesses who spoke about the salary of the deceased.

5. The counsel for the claimants relied on Form-16 filed by the claimants in the Court below, wherein the income of the deceased is reflected.

6. A perusal of the aforesaid document would show that the income varied from Rs.2,000/ and odd to Rs.7,000/- and odd. On one instance, there was a credit of Rs.20,000/- and odd. Hence, the income, as taken by the Court below, does not suffer from any infirmity.

7. However, following 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] the future hike in the income is also to be considered and the deceased, being 26 years, the future hike has to be 40% as per the said decision and the standardized income would come to Rs.5,000/- + (Rs.5,000/- x 40% = Rs.2,000/-) = Rs.7,000/-. Out of the said amount, 1/4th has to be deducted, as the claimants are six in number, as per the decision of the Supreme Court in SARLA VERMA v. DELHI TRANSPORT CORPORATION[1]. Hence, after deducting 1/4th towards personal

[1] (2009) 6 SCC 121

expenditure of the deceased, the loss of future monthly income would come to Rs.7,000/- x ¼ = Rs.5,250/- and the loss of annual income would come to Rs.5,250/- x 12 = Rs.63,000/-. The multiplier ‘17’ adopted by the Court below is appropriate. Hence, the loss of future income would come to Rs.63,000/- x 17 = Rs.10,71,000/-. Apart from the above, Rs.40,000/- is awarded to the first claimant towards loss of consortium, Rs.15,000/- is awarded under the head loss of estate and Rs.15,000/- is awarded under the head funeral expenses as per the decision in PRANAY SETHI’s case (supra). Hence, the claimants are entitled to total compensation of Rs.10,71,000/- + Rs.40,000/- Rs.15,000/- + Rs.15,000/- = Rs.11,41,000/-.

8. Hence, the award of the Court below is modified as indicated above with proportionate costs. The apportionment of compensation shall be made in the same proportion as 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.

In the result, MACMA.No.907 of 2012 is dismissed and MACMA.No.1520 of 2011 is allowed in part. As a sequel, the miscellaneous applications, if any pending, shall stand closed.

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T. RAJANI, J

December 13, 2017
DSK