

* THE HON'BLE SMT JUSTICE T.RAJANI

+ MACMA No.1790 OF 2008

% Dated : 04.09.2017

Md.Ismail Khan and others

..... Appellant

AND

\$ The National Insurance Company Limited and another

..... Respondents

! Counsel for Appellant : Mr. Jagathpal Reddy Kasi Reddy

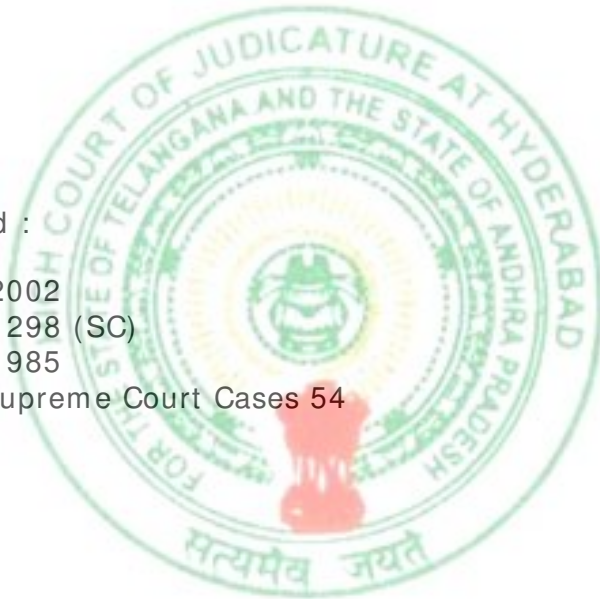
^ Counsel for Respondents : Mr. R.K.Suri

< GIST :

> HEAD NOTE :

? Cases referred :

1. 2012 ACJ 2002
2. 2009 ACJ 1298 (SC)
3. 2015 ACJ 1985
4. (2013) 9 Supreme Court Cases 54



SMT. JUSTICE T.RAJANI

MACMA. No.1790 of 2008

JUDGMENT:

This appeal is preferred by the claimants, aggrieved by the order of the XII Additional Chief Judge, City Civil Court, Hyderabad passed in MVOP. No.1443 of 2006 on 31.01.2008, on the grounds that the Court below erroneously took the multiplier suitable to the age of the mother of the deceased though it ought to have taken the multiplier appropriate to the age of the deceased; it also erred in granting a meagre compensation towards funeral expenses and the salary of the deceased as stated by P.W.2 ought to have been accepted, which is Rs.5,500/- per month.

Heard the learned counsel on either side and perused the material on record.

The judgment of the Court below shows the appreciation done by it with regard to the evidence of the P.W.2, who is the employer of the deceased, who very well stated before the Court that the salary of the deceased was Rs.5,500/- per month and to that effect he also issued Ex.A-7, salary certificate. But the Court below declined to rely on the same, holding that except Ex.A-7, no other documentary evidence was produced. In this regard, I am also of the view that without there being any supporting documentary evidence for the evidence of a person who speaks about the salary of the deceased his evidence cannot, as it is, be accepted. Hence, no fault can be found with the approach of the Court below in taking Rs.3,000/- per month as the income of the deceased. But, so far as the adoption of multiplier is concerned, the Court below seems to have adopted the multiplier relevant for the age of the mother of the deceased. In this regard, the learned counsel for the appellant placed reliance on the ruling of the Apex Court in

AMRIT BHANU SHALI AND OTHERS Vs. NATIONAL INSURANCE CO.LTD. AND OTHERS¹ wherein it is held that the selection of multiplier should be based on the age of the deceased and not on the age of the dependant, because there may be a number of dependants of the deceased whose age may be different and, therefore, the age of dependants has no nexus with the computation of compensation. The age of the deceased in this case was stated to be 25 years for which, appropriate multiplier is 18 according to the case of **SARALA VERMA Vs. DELHI TRANSPORT CORPORATION²**.

The learned counsel for the respondent, Insurance Company, placed reliance in the case of **MUNNA LAL JAIN AND ANOTHER Vs. VIPIN KUMAR SHARMA AND OTHERS³** and submitted that deduction of 50% towards personal and living expenses has to be made. Hence, going by the above ruling 50% of the salary of the deceased, has to be deducted towards his personal expenses. Since the income of the deceased is accepted as Rs.3,000/-, Rs.1,500/- would be the loss of monthly income. $1500 \times 12 = 18000/-$ would be the loss of annual income to the claimants. Then $18000 \times 18 = 3,24,000/-$ would be the loss of future income to the claimants. Hence, the same is substituted for Rs.2,64,000/- that was awarded by the Court below under the said head.

Eventually, the learned counsel for the claimants, by placing reliance in the case of **RAJESH AND OTHERS Vs. RAJBIR SINGH AND OTHERS⁴**, submitted that the Court below erred in awarding only Rs.2,500/- towards funeral expenses but it ought to have awarded, Rs.25,000/- as was directed in the above ruling. Taking into consideration the ruling in Rajesh (4th supra) Rs.25,000/- is substituted for Rs.2,500/- towards funeral expenses. The amount of Rs.10,000/- awarded towards loss of estate is sustained. It is also submitted that the

¹ 2012 ACJ 2002

² 2009 ACJ 1298 (SC)

³ 2015 ACJ 1985

⁴ (2013) 9 Supreme Court Cases 54

Court below did not award any amount towards loss of love and affection to the parents of the deceased. Taking guidance from the 4th ruling cited above, Rs.1,00,000/- is awarded towards loss of love and affection to each of the parents i.e. claimants 1 and 2, though it is not specifically laid down that parents would also be entitled for such amounts. The deceased being an unmarried person, parents would have future hopes, all of which are dashed to the ground by his sudden death. The said loss needs to be compensated by awarding adequate amounts. There cannot be any reason to hold the parents at an inferior position to that of the wife and children of a married person. The total amount of compensation comes to Rs.5,59,000/-, but the same is restricted to Rs.5,00,000/- as per the claim of the claimants.

The award shall relate back to the date of the decree and the enhanced amount shall carry interest at the rate specified and from the time indicated in the award of the Court below.

With the above findings, the appeal is allowed with proportionate costs.

Date: 04.09.2017

Note: L.R.Copy to be marked.
B/o.
LSK

JUSTICE T.RAJANI