

SMT JUSTICE T. RAJANI

MACMA No.656 of 2011

JUDGMENT:

This appeal is preferred by the appellant, who is the claimant before the Court below, assailing the judgment of the Chief Judge, City Civil Court, Hyderabad in MVOP.No.869 of 2007 dated 06.09.2010 on the ground that the Court below did not award adequate compensation.

2. Heard both sides.

3. The counsel for the appellant contends that the income taken by the Court below is not adequate, it being only Rs.3,000/-, ignoring Ex.A19 certificate, which is issued by the Meteorology Department, evidencing the fact that the claimant was working as Butcher. Now the counsel relied on a decision in SYED SADIQ v. DIVISIONAL MANAGER UNITED INDIA INSURANCE CO. LTD.¹ wherein the income of a vegetable vendor was taken as Rs.6,500/-.

4. In the instant case, the claimant is stated to be a butcher. Hence, parity can be drawn between the said case and this case.

5. The counsel for the appellants also relies on a 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] to contend that the future hike in the income is also to be considered and the deceased, being 29 years, the future hike has to be 40%.

¹ AIR 2014 SC 1052

6. Hence, taking the said future hike into consideration, the loss of monthly income of the claimant would come to Rs.6,500/- + (Rs.6,500 x 40% = Rs.2,600/-) = Rs.9,100/- and the loss of annual income would come to Rs.9,100/- x 12 = Rs.1,09,200/-. The multiplier relevant for the age of the claimant, which is 29 years, is '17' as per the decision of the Supreme Court in SARLA VERMA v. DELHI TRANSPORT CORPORATION² and not '18' as adopted by the Court below. Hence, the loss of future income to the claimant would come to Rs.1,09,200 x 17 = Rs.18,56,400/-. Apart from the above, following the judgment of the Supreme Court in SANJAY KUMAR v. ASHOK KUMAR³, Rs.1,00,000/- is awarded towards loss of amenities of life, which would cover the marital discomfort of the claimant. Hence, no separate amount need be awarded under the said head, as urged by the counsel for the appellant.

7. The Court below also took care of the future medical expenses and awarded Rs.3,00,000/-. Hence, the contention of the counsel for the appellant that some more amount need be awarded towards physiotherapy charges cannot be considered. The fact that there was no definite evidence with regard to future medical expenses was taken note of by the Court below, which in the considered opinion of this Court is proper.

8. Hence, the claimant would be entitled to total compensation of Rs.18,56,400 + Rs.1,00,000/- = Rs.19,56,400/- with proportionate costs. The award of the Court below is modified as indicated above.

² (2009) 6 SCC 121

³ (2014) 5 SCC 330

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.

The civil miscellaneous appeal is allowed in part.
As a sequel, the miscellaneous applications, if any pending, shall stand closed.

December 13, 2017
DSK

T. RAJANI, J

