

SMT JUSTICE T. RAJANI

MACMA.No.1153 of 2008

JUDGMENT:

This appeal is preferred by the appellants, who are the claimants before the Court below, assailing the judgment of the I Additional District Judge, Nalgonda in OP.No.1041 of 2004 dated 21.01.2008 on the grounds that the Court below did not award adequate compensation and that the multiplier '17' adopted by the Court below is not appropriate.

2. Heard counsel for the appellants. Respondent counsel is not present.

3. A perusal of the judgment of the Court below shows that the Court below took the income of the deceased as Rs.1,500/- per month. The deceased is stated to be a bore-well driller and is stated to be 25 years old. Hence, in the above circumstances, the income of the deceased can be conveniently taken as Rs.3,000/- per month. The number of appellants, being five in number, the deduction towards personal expenditure is taken as 1/4th as per the decision of the Supreme Court in SARLA VERMA v. DELHI TRANSPORT CORPORATION¹. After deducting 1/4th, the loss of monthly income would come to Rs.2,250/- and annual income would come to Rs.27,000/-. The multiplier '17' adopted by the Court below, being appropriate, the loss of future income to the appellants would come to Rs.27,000/- x 17 = Rs.4,59,000/-.

¹ (2009) 6 SCC 121

4. The counsel for the appellants contends that the Court below awarded only Rs.3,000/- towards funeral expenses. As per the decision of the Supreme Court in RAJESH v. RAJBIR SINGH² it has to be Rs.25,000/-. Hence, the same is awarded. The Court below awarded only Rs.15,000/- towards loss of consortium to the first claimant. As per the above decision, Rs.1,00,000/- is awarded towards loss of consortium.

5. The counsel also relies upon a decision of the Supreme Court in ASHA VERMAN v. MAHARAJ SINGH³ in support of his contention that Rs.1,00,000/- should be awarded towards loss of estate and towards loss of love and affection for each of the children and Rs.50,000/- should be awarded for loss of love and affection to each the parents.

5. In this case, there are two children, who are claimants 2 and 3, hence, Rs.2,00,000/- would be the compensation that has to be awarded towards loss of love and affection to claimants 2 and 3 together and Rs.1,00,000/- is awarded towards loss of estate and Rs.50,000/- x 2 = Rs.1,00,000/- is awarded towards loss of love and affection to the parents of the deceased, who are claimant Nos.4 and 5. Hence, in all the claimants are entitled to compensation of Rs.4,59,000/- (loss of future income) + Rs.25,000/- (funeral expenses) + Rs.1,00,000/- (loss of consortium) + Rs.2,00,000/- (loss of love and affection to two children) + Rs.1,00,000/- (loss of estate) + Rs.1,00,000/- (loss of love and affection to parents) = Rs.9,84,000/-, which, being beyond the claim made by the claimants

² (2013) 9 SCC 54

³ 2015 (6) ALD 24 (SC)

of Rs.6,50,000/-, is restricted to Rs.6,50,000/-. This award shall relate back to the date of decree and the compensation awarded shall carry interest at the rate specified and from the time indicated in the award by the Court below.

The civil miscellaneous appeal is allowed in part. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

October 13, 2017
DSK

T. RAJANI, J

