SMT JUSTICE T. RAJANI

MACMA.Nos.873 and 885 of 2008

COMMON JUDGMENT:

The appellants in MACMA.No.873 of 2008 are the respondents before the Court below and they assail the judgment of the VIII Additional District Judge, Nizamabad in OP.No.1386 of 2003 dated 12.11.2007 on the grounds that the negligence aspect was not properly dealt with by the Court below and it erred in relying on Ex.A7 salary certificate, though the person, who issued the same was not examined.

2. The claimants before the Court below also question the aforesaid award by way of MACMA.No.885 of 2008 with regard to inadequacy of compensation, on the ground that future increase in the salary of the deceased was not taken into consideration.

3. Heard both the counsel.

4. The Court below, while discussing the aspect of negligence, came to the conclusion that the negligence was on the part of the crime vehicle. It believed the evidence of P.W.2 while disbelieving the evidence of R.W.1, who is the conductor of the crime vehicle. The appreciation made by the Court below as regards the evidence of R.W.1 and P.W.2 went on correct lines. The self-serving evidence of R.W.1 was rightly not believed. The Court below rightly appreciated the evidence of P.W.2, which is supported by contents of Exs.A1 and A2, which are certified copies of FIR and charge sheet. Hence, there is

no need to interfere with the finding of the Court below on the aspect of negligence.

5. With regard to compensation, the counsel for APSRTC, however, does not raise any serious contention. The counsel for the claimants contends that the Court below did not consider the future prospects of the deceased and the likely hike in the salary.

6. A perusal of the judgment shows that the Court below did not believe the salary certificate, which was filed in the Court as no one was examined to prove the said certificate. For the same reason, this Court also is not in a position to believe the said certificate. Under the circumstance that the salary was not proved by the claimants, the Court below took Rs.3,500/- as the income of the deceased, which has to be held as the neutralized future income of the deceased. When there is no concrete evidence about the income of the deceased the future prospects and the income cannot also be arrived with precision. Hence, the same is not interfered with. However, the multiplier '11', which was adopted by considering the age of the mother, cannot be sustained as '18' should be the multiplier, which is the one relevant to the age of the deceased as per the decision of the Supreme Court in SARLA VERMA v. DELHI TRANSPORT CORPORATION[1]. The deceased being unmarried, 50% of the income has to be deducted towards his personal expenditure, thereby, Rs.1750/- would be loss of monthly income and Rs.21,000/- would be loss of annual income. The loss of dependency to the claimants would come to Rs.21,000 x 18 = Rs.3,78,000/- and the same is awarded

[1] (2009) 6 SCC 121

towards loss of dependency. Apart from the above, Rs.25,000/- is awarded towards funeral expenses and Rs.50,000/- is awarded towards loss of love and affection to the first claimant, who is the mother of the deceased, as per the decision of the Supreme Court in RAJESH v. RAJBIR SINGH[2].

7. Hence, in all the claimants are entitled to total compensation of Rs.3,78,000/- (loss of dependency) + Rs.25,000/- (funeral expenses) + Rs.50,000/- (loss of love and affection to first claimant) = Rs.4,53,000/-. 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.

In the result, MACMA.No.873 of 2008 is dismissed and MACMA.No.885 of 2008 is allowed in part. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

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T. RAJANI, J

September 14, 2017
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[2] (2013) 9 SCC 54