

SMT JUSTICE T.RAJANI

M.A.C.M.A.No.1143 of 2008

ORDER:

This appeal is preferred by the appellants, who are the claimants before the court below, assailing the judgment of the IV Additional District Judge, Tirupati, in M.V.O.P.No.371 of 2006 dated 05.12.2007 on the ground that the Court below took the income of the deceased only as Rs.60/- per day in spite of the deceased being a skilled worker i.e., mason and his salary being Rs.150/- per day.

Heard both sides and perused the record.

The counsel for appellants contends that the income of Rs.60/- per day taken by the court below, is very low, as the deceased is a Mason and the evidence was that he was earning Rs.150/- per day. The trend of the Courts, where there is no evidence on the income, is to take Rs.3,000/-, in the least, as the monthly income of the deceased, who is able-bodied. Hence, it can be straightaway concluded that the income of Rs.60/- per day taken by the court below is on the lower side and the income of the deceased can be taken as Rs.100/- per day, which comes to Rs.3,000/- per month. However, the counsel fairly concedes that the multiplier for the age of the deceased, who is aged 42 years, is '14' and the court below adopted multiplier '15'. But he contends that the deduction towards personal expenses of the deceased has

to be $\frac{1}{4}$ th as the dependants are four in number. As per the decision of the Supreme Court in SARLA VERMA v. DELHI TRANSPORT CORPORATION¹, $\frac{1}{4}$ th has to be deducted towards personal expenses when claimants are from 4 to 6. Therefore, after deducting $\frac{1}{4}$ th from Rs.3,000/-, loss of income would be Rs.2,250/- per month and Rs.27,000/- per annum. When the same is multiplied with '14', it would come to Rs.3,78,000/- (Rs.2,250/- x 12 x 14).

The learned counsel for appellants also contends that the amounts awarded towards loss of consortium and funeral expenses are also meager and in the light of the judgment in RAJESH v. RAJBIR SINGH², loss of consortium has to be Rs.1,00,000/- and funeral expenses has to be Rs.25,000/-. The Supreme Court, in the decision *supra*, by considering the price index held that at least an amount of Rs.25,000/- would be adequate towards funeral expenses. Hence, bound by the said decision, Rs.25,000/- is awarded towards funeral expenses. The 1st appellant is entitled for a sum of Rs.1,00,000/- towards loss of consortium. Hence, in all, the appellants are entitled to total compensation of Rs.3,78,000/- + 1,00,000/- + 25,000/- = Rs.5,03,000/-, but the same is restricted to Rs.4,00,000/- as per the claim of appellants.

The award shall relate back to the date of decree and the enhanced compensation amount shall carry interest at the rate

¹ (2009) 6 SCC 121

² (2013) 9 SCC 54

specified and from the time indicated in the award by the court below.

The appeal is accordingly allowed. No order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

T.RAJANI, J

Dt: 15.09.2017
Prv



HON'BLE SMT JUSTICE T.RAJANI



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Prv

