SMT JUSTICE T. RAJANI

MACMA.No.1116 of 2008

JUDGMENT:

This appeal is preferred by the appellants, who are the claimants before the Court below, assailing the judgment of the VIII Additional District Judge, Karimnagar in OP.No.534 of 2005 dated 11.05.2005 on the grounds that the Court below erred in considering the evidence of P.Ws.1 and 2; it also erred in taking the salary of the deceased as Rs.2,500/- per month; it failed to consider the future increase in the income of the deceased and it did not award any compensation for loss of love and affection to the appellants.

2. Heard the counsel for the appellants. Counsel for the respondent remained absent.

3. The deceased, in this case, is a person aged 22 years and is not married. The dependants are his father, grand mother and sisters. The deceased is stated to be a vegetable vendor and his income is claimed to be Rs.8,000/- per month. In support of the said claim, the claimants got examined P.Ws.1 and 2. P.W.1 is the first claimant and P.W.2 is the villager of the deceased. The Court below took the monthly income of the deceased as Rs.2,500/- per month by disbelieving the evidence of P.Ws.1 and 2. Even this Court opines that the evidence of P.Ws.1 and 2 cannot be as it is taken into consideration. The evidence of P.W.1 is naturally self-serving and P.W.2 cannot be considered as a witness competent to speak about the income of the deceased only based on the fact that he is a vegetable vendor. Hence, going by the probable income, which is

usually taken by the Courts as Rs.3,000/- in case of able-bodied persons, Rs.3,000/- can be taken as the monthly income of the deceased in this case also. The claimants being four in number, the deduction towards personal expenditure of the deceased can be taken as 1/3rd; the loss of monthly income comes to Rs.2,000/- and annual income to Rs.24,000/-. The multiplier adopted by the Court below is 13, which is appropriate for the age of the father of the deceased but the law now settled is that the multiplier relevant for the age of the deceased has to be taken, which is 18 as per the decision of the Supreme Court in SARLA VERMA v. DELHI TRANSPORT CORPORATION[1]. Hence, Rs.24,000/- x 18 = Rs.4,32,000/- is the amount that can be awarded towards loss of dependency.

4. Counsel for the appellant contends that Rs.2,000/- was granted without specifying the head under which it is granted and he contends that Rs.25,000/- has to be awarded towards funeral expenses as laid down by the Supreme Court in RAJESH v. RAJBIR SINGH[2].

5. 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 Court below did not award any amount towards loss of love and affection. Hence, a sum of Rs.10,000/- each is awarded towards loss of love and affection to claimants 2, 3 and 4 and a sum of Rs.25,000/- is awarded towards loss of love and affection to claimant No.1. Hence, in all,

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[1] (2009) 6 SCC 121
[2] (2013) 9 SCC 54

the claimants are entitled to total compensation of Rs.4,32,000/- + Rs.25,000/- + Rs.30,000/- + Rs.25,000/- = Rs.5,12,000/-.

6. In the result, the award of the Court below is enhanced from Rs.2,62,000/- to Rs.5,12,000/- as indicated above and the rest of the award is left uninterfered with. This award shall relate back to the date of decree and the enhanced amount 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.

T. RAJANI, J

August 16, 2017
DSK