

SMT JUSTICE T. RAJANI

MACMA.Nos.387 of 2008 and 325 of 2012

COMMON JUDGMENT:

MA.CMA.No.387 of 2008 is preferred by the insurance company, who is respondent No.2 in the Court below, while MA.CMA.No.325 of 2012 is preferred by the claimants. Both the appeals assailed the judgment of Chairman, Motor Accident Claims Tribunal-cum-District Judge, Nizamabad, in O.P.No.281 of 2003 dated 14.06.2006 only on the quantum. Hence, the grounds need not be elaborately stated.

Heard both the learned counsel.

The case pertains to the death of a minor boy, who, according to the claimants, is aged 16 to 17 years but according to the post mortem examination and the inquest reports, the age of the deceased is shown as 13 years. The record shows that no evidence was adduced with regard to the accurate proof of the age of the deceased. Hence, as against the self-serving evidence of the claimants, the age mentioned in the post mortem examination and inquest reports stands on a better footing. Hence, the age of the deceased as 13 years, as accepted by the Court below, cannot be found fault with. So also the notional income of Rs.15,000/- which was taken by the Court below in the absence of any proof regarding running of a hotel by the deceased. The income as claimed by the claimants is also not

proved. Hence, taking of notional income by the Court below is on proper lines. The Court below also did not make any deduction from the income of the deceased by following the ruling of the Apex Court reported in **Manju Devi and another v. Musafir Paswan and another**¹. Hence, the same needs no interference. The Court below by relying on the ruling in **Shyam Narayan v. Kitty Tours Travels and others**², awarded Rs.75,000/- towards loss of love and affection and for the loss of company of the deceased. The High Court of Delhi in **Shyam Narayan** (2 supra) granted Rs.1,00,000/- towards loss of expectation of financial and moral support as also the loss of company of child, mental agony etc., and Rs.50,000/- towards loss of company of child and pain and suffering suffered by them as a result of untimely death of the child.

In the above circumstances, I do not see any reason to interfere with the judgment of the Court below.

In the result, both the appeals are dismissed but in the circumstances, without costs.

Pending miscellaneous petitions, if any, shall stand dismissed.

SMT. T. RAJANI, J

23rd JUNE, 2017.

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¹ 2005 ACJ 99 SC

² 2005(3) AJR 451