SMT JUSTICE T. RAJANI

MACMA.No.2550 of 2011

JUDGMENT:

This appeal is preferred by the appellants, who are the claimants before the Court below, assailing the judgment of the II Additional Chief Judge, City Civil Court, Hyderabad in OP.No.221 of 2008 on the ground that the Court below did not award adequate compensation.

2. Heard both sides.

3. The deceased is stated to be working as Security Guard and he was aged 30 years by the date of accident. The Court below, by considering that in the claim petition the salary of the deceased is stated to be only Rs.3,500/- did not believe the evidence of P.Ws.1 and 2 that he was drawing Rs.5,000/- per month.

4. The counsel for the appellants, however, contends that it was only an erroneous mention of the salary.

5. However, the law is now settled by the Supreme Court in SYED SADIQ v. DIVISIONAL MANAGER UNITED INDIA INSURANCE CO. LTD.[1] wherein Rs.5,000/- was taken as the monthly income of a cleaner. In this case, the deceased is stated to be a security guard and his income can be taken as Rs.5,000/- per month. Following the latest decision of the Supreme Court in NATIONAL INSURANCE CO. LTD. v. PRANAY SETHI [Special Leave Petition (Civil) No.25590 of 2014 and

---

[1] AIR 2014 SC 1052

batch dated 31.10.2017] 40% of the future hike in income is also to be considered as the deceased is aged 30 years.

6. The loss of monthly income would come to Rs.5,000/- + (Rs.5,000/- x 40% = Rs.2,000/-) = Rs.7,000/-. The claimants, being four in number, 1/4th of the income has to be deducted towards personal expenditure by following the decision of the Supreme Court in SARLA VERMA v. DELHI TRANSPORT CORPORATION[2] i.e. Rs.7,000/- - (Rs.7,000 x ¼ = Rs.1,7500/-) = Rs.5,250/- would be the loss of monthly income and the loss of annual income would come to Rs.5,250/- x 12 = Rs.63,000/-. The multiplier relevant for the age of the deceased as per SARLA VERMA's case (2 supra) is '17'. Hence, the loss of future income would come to Rs.63,000/- x 17 = Rs.10,71,000/-. Apart from the above, following PRANAY SETHI's case (supra), Rs.40,000/- is awarded to the first claimant under the head loss of consortium, Rs.15,000/- is awarded towards loss of estate and Rs.15,000/- is awarded towards funeral expenses. Hence, in all, the claimant is entitled to total compensation of Rs.10,71,000/- + Rs.40,000/- + Rs.15,000/- + Rs.15,000/- = Rs.11,41,000/-. Though the compensation granted exceeds the claim amount, now the law is well settled by virtue of the decision of the Supreme Court in RAJESH v. RAJBIR SINGH[3], wherein it was held that the compensation has to be just and it can exceed the claimed amount. This Court also in ADAM INDUR MUTEMMA v. RATHOD PEDDITA[4] held that the compensation amount can exceed claimed amount, subject to payment of court-fee.

---

[2] (2009) 6 SCC 121
[3] (2013) 9 SCC 54
[4] 2015(4) ALD 585 (LB)

7. Hence, the award of the Court below is modified as indicated above with proportionate costs. The claimants shall pay the differential court-fee. The award shall relate back to the date of decree and the compensation awarded shall carry the interest at the rate and from the date specified by the Court below. The enhanced compensation shall be apportioned among the claimants in the same proportion as per the award of the Court below.

The civil miscellaneous appeal is allowed in part. As a sequel, the miscellaneous applications, if any pending, shall stand closed.

____________
T. RAJANI, J

December 15, 2017
DSK