SMT JUSTICE T. RAJANI

MACMA.No.3033 of 2012

JUDGMENT:

This appeal is preferred by the appellant, who is the claimant before the Court below, assailing the judgment of the II Additional Chief Judge, Hyderabad in OP.No.1022 of 2007 dated 18.02.2012, on the ground that the Court below did not award adequate compensation; it ought to have considered the income of the claimant as Rs.8,000/- per month as Pan Card is also filed and the compensation awarded under other heads like loss of amenities, marriage prospects etc. are also not adequate.

2. Heard both sides.

3. This is a case of paraplegia where the claimant is totally disabled for life. The Court below did not deny the said fact and took the disability as 100%. The disputed fact before this Court is only with regard to the income that was taken by the Court below. The Court below took the income of the claimant as Rs.3,000/- per month considering that no evidence was adduced with regard to the income of the claimant.

4. The counsel for the appellant now relies on a decision of the Supreme Court in RAMCHANDRAPPA v. ROYAL SUNDARAM ALLIANCE INSURANCE CO. LTD.[1] wherein it was held that Rs.4,500/- can be taken as the income of a coolie in the absence of

[1] 2011 (6) ALD 75 (SC)

any evidence. The approach of the Court below in taking Rs.3,000/- per month as the income of the coolie was found fault with.

5. Hence, following the aforesaid decision, Rs.4,500/- can be taken as the income of the claimant in this case also.

6. The counsel for the appellant also relies on a latest decision of the Supreme Court in NATIONAL INSURANCE CO. LTD. v. PRANAY SETHI [SLP(Civil).No.25590 of 2014 dated 31.10.2017) to contend that the future hike in the income is also to be considered and it has to be 40% as per the said decision.

7. Hence, taking the said future hike into consideration, the monthly income of the claimant comes to Rs.4,500/- + Rs.4,500/- x 40% = Rs.1,800/- = Rs.6,300/- and the annual income comes to Rs.6,300/- x 12 = Rs.75,600/-. The multiplier relevant for the age of the claimant, which is 33 years, is '16' as per the decision of the Supreme Court in SARLA VERMA v. DELHI TRANSPORT CORPORATION[2]. Hence, the loss of future income would come to Rs.75,600/- x 16 = Rs.12,09,600/-. The loss of income is calculated from the date of accident itself, hence, there need not be any award towards loss of income during the period of treatment, rest and recovery. The Court below awarded Rs.10,000/- under the said head. Hence, when the same is deducted from the above amount, the compensation under that head, approximately, comes to Rs.12,00,000/-.

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[2] (2009) 6 SCC 121

8. The counsel for the appellant also relies on a decision of the Supreme Court in SANJAY VERMA v. HARYANA ROADWAYS[3] wherein the Court below awarded Rs.1,00,000/- towards loss of amenities of life.

9. This is a case of paraplegia where the claimant is entitled to loss of amenities of life and hence, it is just to award Rs.1,00,000/- towards loss of future amenities of life. Thereby, the claimant is entitled to total compensation of Rs.12,00,000/- + Rs.1,00,000/- = Rs.13,00,000/- with proportionate costs.

10. Hence, the award of the Court below is modified as indicated above and the other amounts awarded made by the Court below are not interfered with. The award shall relate back to the date of decree and the enhanced compensation awarded shall carry the interest at the rate and from the date specified by the Court below.

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

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T. RAJANI, J

November 27, 2017
DSK

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[3] 2014 LAWSUIT (SC) 59