

SMT JUSTICE T.RAJANI

M.A.C.M.A. No.1036 OF 2012

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 (for short, 'the Court below') in O.P. No.695 of 2004 dated 18.09.2006, on the ground that the Court below did not award adequate compensation.

2. Heard the learned counsel for the appellants/claimants. None appears for the respondents.

3. The contention of the appellants' counsel is that the deceased is a student; the Court below took only Rs.1,800/- as the monthly income of the deceased by not believing the evidence of P.Ws.3 and 4. According to the case of the appellants, the deceased studied intermediate and, while doing graduation, he used to work in Kamineni Institute of Medical Sciences and M/s. Shivashakthi Trading Company. In proof of the said fact, the claimants examined P.Ws.3 and 4, who belong to the Kamineni Educational Society and M/s. Shivashakthi Trading Company, respectively. Both of them supported the case of the claimants that the deceased was drawing Rs.1,980/- and Rs.3,250/- p.m. by working in the respective institutions, but the Court below did not believe the evidence and took the income of the deceased only as Rs.1,980/- p.m.

4. However, now the learned counsel relied on a ruling of the Apex Court in **V. Mekala Vs. M. Malathi**¹, which related to a girl who was studying 11th standard. The Court by considering her academic records, who secured 1st rank in her 10th standard, took her income as Rs.10,000/-

¹ 2014 ACJ 1441

p.m. But, in the instant case, from a perusal of Ex.A-6 S.S.C. certificate, and Ex.A-7 intermediate certificate of the deceased, it is clear that the deceased was only a second grade student. Hence, by following the ruling laid down by the Apex Court in **Mekala's** case (1 *supra*), Rs.7,000/- can be taken as the monthly income of the deceased in this case. As per the ruling of the Apex Court in **National Insurance Company Limited Vs. Pranay Sethi** [Special Leave Petition (Civil) No.25590 of 2014 and batch dated 31.10.2017], considering the age of the deceased which is 22 years, 40% has to be taken as the future hike in his income. As per the above ruling, the monthly income of the deceased would come to Rs.9,800/-. The deceased being an un-married person, 50% should be deducted towards his personal expenses, as per the ruling of the Apex Court in **Sarla Verma Vs. Delhi Transport Corporation**². After deducting 50% of the amount from out of Rs.9,800/-, Rs.4,900/- would be the loss of monthly income and Rs.58,800/- would be the loss of annual income of the deceased. In view of the ruling laid down by the Apex Court in **Munna Lal Jain Vs. Vipin Kumar Sharma**³, the multiplier which is relevant for the age of the deceased has to be taken even in case of an un-married person. The Apex Court relied on its earlier judgment in **Reshma Kumari Vs. Madan Mohan**⁴ in arriving at the said conclusion. Hence, as per the ruling of the Apex Court in **Sarla Verma's** case (2 *supra*), the multiplier applicable to the age of the deceased is '18' and if the same is multiplied with Rs.58,800/-, it would come to Rs.10,58,400/-, which is awarded towards loss of future income to the claimants. Apart from the above, following **Pranay Sethi's** case (*supra*), Rs.15,000/- is awarded towards loss of estate and Rs.15,000/- is awarded towards funeral expenses. Hence, in all, the claimants are entitled to total compensation of Rs.10,58,400/- +

² (2009) 6 SCC 121

³ 2015 ACJ 1985

⁴ 2013 (9) SCC 65

Rs.15,000/- + Rs.15,000/- = Rs.10,88,400/-. Though the compensation granted exceeds the claim amount, now the law is well settled by virtue of the decision of the Apex Court in **Rajesh Vs. Rajbir Singh**⁵, 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 Vs. Rathod Peddita**⁶ held that the compensation amount can exceed claimed amount, subject to payment of court-fee.

5. 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.

Accordingly, with the above direction, the Civil Miscellaneous Appeal is allowed. As a sequel, the miscellaneous applications, if any pending, shall stand closed.

T.RAJANI, J

Date: 22.12.2017.
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⁵ (2013) 9 SCC 54

⁶ 2015 (4) ALD 585 (LB)

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