HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
HON'BLE SMT JUSTICE T.RAJANI

M.AC.M.A. Nos. 2414 & 2712 OF 2013

COMMON JUDGMENT:

(Per Hon'ble Sri Justice SURESH KUMAR KAIT)

These two appeals are filed questioning Award dated 04.01.2013 in MVOP No.2441 of 2010 on the file of MACT-cum-IX Additional Chief Judge, City Civil court, Hyderad.

2. M.A.C.M.A.No.2414 of 2013 is filed by APSRTC contending that the compensation under all the heads, interest and cost is excessive and contrary to the settled law, whereas MACMA No.2712 of 2013 is filed by claimants prayed for enhancement of the compensation awarded vide order and decree dated 04.01.2013 and to grant just and reasonable complementation with cost and interest.

3. Learned Standing Counsel for APSRTC argued that admittedly the deceased gross income was Rs.82,038/- and he was paying an amount of Rs.3,000/- per month as income tax. However learned tribunal has deducted income tax for an amount of Rs.36,000/- only, which is less than the income tax had to be deducted, while awarding compensation in favour of the claimants.

4. Learned counsel appearing on behalf of the claimants does not dispute the said fact and submits that the

income tax for an amount of Rs.56,874/- to be deducted and accordingly award may be modified.

5. Learned counsel appearing on behalf of the claimants argued that the learned tribunal has not added future prospects while awarding compensation. Learned tribunal has added Rs.4,02,344/- towards future prospects in stead of 15% as per the dictum of Supreme Court reported in **NATIONAL INSURANCE CO.LTD. v. PRANAY SETHI**[1]. This argument has not been disputed by the learned Standing counsel for APSRTC.

6. We note, in para-25 of the award, various amounts towards compensation have been given by the learned tribunal, however, in view of **PRANAY SETHI**'s case (supra), the claimants are entitled to only Rs.70,000/- under conventional heads. Accordingly, we hereby modify the award as under:

7. The salary of the deceased is assessed as Rs.82,038/- per month, then the annual income would come to Rs.82,038/- x 12 = Rs.9,84,456/-. The income tax of the deceased assessed at Rs.56,874/-, which is not in dispute, if deducted, then the income of the deceased would come to Rs.9,84,456/- - Rs.56,874/- = Rs.9,27,582/-.

8. Following the latest decision of the Supreme Court in **PRANAY SETHI's case (1 supra),** the future hike in the

[1] 2017 ACJ 2700

income at 15% is also to be considered and the standardized income would come to Rs.9,27,582/- + (Rs.9,27,582/- x 15% = Rs.1,39,137/-) = Rs.10,66,719/-. Out of the said amount, 1/3rd has to be deducted, as per the decision of the Supreme Court in **SARLA VERMA v. DELHI TRANSPORT CORPORATION**[2]. Hence, after deducting 1/3rd towards personal expenditure of the deceased, the loss of future income would come to Rs.10,66,719/- (Rs.10,66,719/- x 1/3 = Rs.3,55,573/)- = Rs.7,11,146/-. The multiplier '11' is relevant for the age of the deceased. Hence, the loss of future income would come to Rs.7,11,146/- x 11 = Rs.78,22,606/-. Apart from the above, Rs.40,000/- is awarded towards loss of consortium, Rs.15,000/- is awarded under the head loss of estate and Rs.15,000/- is awarded under the head funeral expenses as per the decision in **PRANAY SETHI's** case (1 supra).

9. Hence, the claimants are entitled to total compensation of Rs.78,22,606/- + Rs.40,000/- Rs.15,000/- + Rs.15,000/- = Rs.78,92,606/-. Though the compensation awarded exceeds the claim, 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**

[2] (2009) 6 SCC 121
[3] (2013) 9 SCC 54

PEDDITA[4] held that the compensation amount can exceed claimed amount, subject to payment of court-fee.

10. 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.

11. In view of the above, the MACMA No.2712 of 2013 is partly allowed and MACMA No.2414 of 2013 is dismissed.

Miscellaneous petitions, if any, pending shall stand closed.

SURESH KUMAR KAIT, J.

SMT T.RAJAI, J.

Date :25-04-2018

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[4] 2015(4) ALD 585 (LB)