

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

M.A.C.M.A.No.2249 of 2015

JUDGMENT : (Oral)

(Per Hon'ble Sri Justice Suresh Kumar Kait)

Vide the present appeal, the appellants have challenged the Award dated 24th November 2014, passed in M.V.O.P.No.1603 of 2013, whereby, the learned Tribunal awarded compensation to the tune of Rs.43,93,947/- with interest @7.5% p.a. from the date of petition till the date of realization.

2. Learned counsel appearing on behalf of appellants argued that the deceased was working as a Software Engineer in Prokarma Software Private Limited at Begumpet, and was drawing monthly salary of Rs.31,316/-. Thus, the deceased was not in permanent job. However, the learned Tribunal, while awarding the compensation, added 50% future prospects as he was aged 26 years at the time of accident, contrary to the dictum of the Constitution Bench of the Hon'ble Supreme Court delivered in **National Insurance Co. Ltd. v. Pranay Sethi & others¹**. Thus, the Award deserves to be modified.

3. We have perused the aforecited judgment, whereby, it is held that while determining the income, an addition of 50% of actual

¹ 2017 ACJ 2700

salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. It is further held that in case, the deceased was self-employed or on a fixed salary, an addition of 40% of the estimated income should be the warrant where the deceased was below the age of 40 years.

4. On perusal of para 11 of the impugned Award, it is clear that the deceased was working as a Software Engineer in Prokarma Software Private Limited at Begumpet and he was drawing a monthly salary of Rs.31,316/-. The claimants have examined one M.Srinivas Reddy, the Senior Manager, Human Resources of the aforesaid Company as PW-2, who deposed that on 07.08.2010, the deceased was appointed in their Company on a yearly remuneration of Rs.1,44,000/-. After six months, his salary was increased to Rs.2,03,000/- per annum. Thereafter, he was promoted as Junior Software Engineer from 1st February 2011. After completion of one year, again, his salary was reviewed to Rs.3,50,000/- with effect from 1st February 2012. He further deposed that the deceased was promoted as Software Engineer and his salary has been reviewed at Rs.4,50,000/- per annum with effect from 1st February 2013. Ex.X-1 is the offer letter issued by him.

5. Thus, it is established that the deceased was neither self-employed nor on a fixed salary. Therefore, the learned Tribunal, while passing the Award, has rightly added 50% keeping in view the age of deceased i.e. 26 years as on the date of accident.

6. Thus, we find no substance in the argument of the learned counsel for appellants.

7. Finding no merit in the appeal, the same is accordingly dismissed. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.



SURESH KUMAR KAIT, J

T. RAJANI, J

18th April, 2018

ajr