

SMT JUSTICE T. RAJANI

MACMA.No.1397 of 2012

JUDGMENT:

This appeal is preferred by the appellants, who are the respondents before the Court below, assailing the judgment of the IX Additional District and Sessions Judge, Kamareddy in OP.No.402 of 2009 dated 02.09.2010 by virtue of which the tribunal below awarded compensation of Rs.6,00,000/- with costs and interest at 7.5 % per annum from the date of petition till realization.

2. The appeal is preferred impugning the said judgment on the grounds that the tribunal below erred in not considering the aspect of contributory negligence on the part of the deceased, when it is an admitted fact that alleged accident occurred in opposite direction and erred in considering the evidence of P.W.1 and Ex.A5, which is a residential certificate, to arrive at the conclusion that the deceased was an RMP Doctor and income of the deceased was Rs.5,000/- per month.

3. Heard the counsel for the appellant. None appears for the respondents.

4. The counsel for the appellants, at the hearing, does not insist upon the ground of contributory negligence taken in the grounds of appeal. His main contention rests on the fact that the tribunal borrowed the principles under the second schedule of the Motor Vehicles Act (for short 'the Act') in awarding the compensation under heads of funeral expenses, multiplier etc.

5. The law is well settled that even in cases filed under Section 166 of the Act, the second schedule of the Act can be taken for adopting the multiplier. The general principles incorporated under the second schedule of the Act can be borrowed for the sake of guidance. The multiplier, which was adopted by the tribunal below, by taking it from the second schedule of the Act, is not disputed as relevant for the age of the deceased. Hence, this Court finds no force in the contention of the counsel for the appellant that Section 163-A of the Act cannot, in any manner, be applied to cases filed under Section 166 of the Act.

The civil miscellaneous appeal is dismissed. As a sequel, the miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

May 2, 2018
DSK



T. RAJANI, J