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

MACMA Nos 1324 And 2201 of 2016

COMMON JUDGMENT: (ORAL)

(Per Hon'ble Sri Justice Suresh Kumar Kait)

Both appeals have arisen out of common award dated 30-11-2015. Therefore, we have decided to dispose of both the appeals by way of common judgment.

In MACMA.No.1324 of 2016, the appellant/claimant had challenged the award dated 30-11-2015 passed in OP.No.875 of 2013 on the ground that learned Tribunal has awarded 25% as future prospects despite the age of deceased was 39 years as on the date of accident. Learned counsel for the appellant/claimant submits that as per the judgment of **National Insurance Company Limited v. Pranay Sethi**[1] future hike in the income is also to be considered and the deceased, being 39 years, the future hike has to be 40% as per the said decision towards future prospects.

Learned counsel appearing on behalf of respondent-Insurance Company does not dispute the same and submits that learned Tribunal has awarded 25% future prospects instead of 40%.

[1] 2017 ACJ 2700

In M.A.CMA.No.2201 of 2016, the appellant, which is the insurance company, has challenged the award dated 30-11-2015 in OP.No.875 of 2013, whereby the learned Tribunal has awarded an amount of Rs.1,00,000/- towards loss of consortium, instead of Rs.40,000/- as per the dictum of **Pranay Sethi's case** (supra) and also awarded an amount of Rs.1,00,000/- towards loss of love and affection contrary to the aforesaid dictum and awarded Rs.10,000/- towards funeral expenses and Transportation expenses contrary to the aforesaid judgment and Rs.10,000/- towards loss of estate instead of Rs.15,000/- against the dictum of Supreme Court in the aforesaid case. The same is not disputed by learned counsel for the respondent. Accordingly we hereby modify the award by awarding Rs.40,000/- towards loss of consortium and Rs.15,000/- towards funeral expenses and Transport expenses Rs.15,000/- towards loss of estate.

The other ground urged by learned counsel for the appellant-Insurance Company that the learned Tribunal has awarded excessive rate of interest at the rate of 12% p.a. We are in agreement with the submission of learned counsel for the appellant and the rate of interest is reduced to 7.5% p.a.

Keeping in view the age of the deceased as 39 years on the date of accident, accordingly we are inclined to modify the award.

The annual income of deceased comes to Rs.1,80,000/- and the relevant multiplier for the age of deceased, which is 39 years, is '15' as per the decision of **Sarla Verma v. Delhi Transport Corporation**[2]. Hence the loss of future income to the claimant would come to Rs.1,80,000/- x 15=27,00,000/- x 40% =10,80,000 (future prospects) and it comes to Rs.37,80,000/-. After deduction towards personal expenses at 1/3rd which amounts to Rs.12,60,000/-. the loss of future income to the claimant would come to Rs.25,20,000/-. Apart from the above, Rs.40,000/- is awarded under the head of loss of consortium, Rs.15,000/- is awarded under the head loss of loss of estate and Rs.15,000/- is awarded under the head of funeral expenses as per the decision in **PRANAY SETHI's** case (supra). Hence the appellant is entitled to total compensation of Rs.25,90,000/-.

So far as the rate of interest is concerned, as the Tribunal granted it at 12% per annum, the same is reduced to 7.5% per annum on the entire amount awarded from the date of petition till realisation.

Accordingly, both the appeals are partly allowed modifying the award passed by the Tribunal, by enhancing the compensation and modifying the rate of interest, as

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[2] (2009) 6 SCC 121

indicated above, and confirming the same in all other respects. There shall be no order as to costs.

As a sequel, the miscellaneous applications, if any pending, shall stand closed.

JUSTICE SURESH KUMAR KAIT

JUSTICE T. RAJANI

25-04-2018
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