THE HONOURABLE SRI JUSTICE SURESH KUMAR KAIT

AND

THE HONOURABLE SMT JUSTICE T. RAJANI

MA CMA No.1482 of 2013

JUDGMENT: (Per the Hon'ble Sri Justice Suresh Kumar Kait)

Vide the present appeal, the appellant-insurance company has challenged the order dated 12.02.2013 passed in O.P.No.205 of 2011 by the Motor Accidents Claims Tribunal-cum-II Additional District Judge, Madanapalle, on the ground that the evidence of P.W.3 discloses that the employment of the deceased, by name, R. Akilesh, was not temporary, but it will be renewed from year to year and his salary and other emoluments were paid through his Bank account and that Ex.X3- pay slip discloses that the deceased was paid gross salary of Rs.15,944/- and net pay of Rs.15,026/- for the month of December, 2010 and therefore, the Tribunal ought to have noted that the employment of the deceased is not permanent.

2. Learned counsel for the appellant submits that the deceased was employed on a fixed salary and not on permanent job, however, the Tribunal added 50% of the future prospects contrary to the judgment of the Apex Court in **National Insurance Company Ltd., V. Pranay Sethi and others**[1].

3. Learned counsel for respondents 1 and 2/claimants does not dispute the submissions made by the learned counsel for the appellant.

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[1] 2017 ACJ 2700

4. In view of the facts and circumstances of the case, we hereby, accordingly, reduced the future prospects of 50% awarded by the Tribunal to 40% in terms of the judgment of the Apex Court in **Pranay Sethi's** case (supra) and the compensation comes as under:

The Tribunal took the monthly salary of the deceased, as per Ex.X3, at Rs.15,944/- and annually it comes to Rs.1,91,328/- . After applying multiplier '18' the loss of dependency comes to Rs.34,43,904/-, out of which, 50% would be deducted towards his personal expenses as the deceased was unmarried, then it comes to Rs.17,21,952/-. If 40% of future aspects i.e., Rs.6,88,780/- is added, the loss of dependency comes to Rs.24,10,732/-. In additional to it, as the Tribunal granted only an amount of Rs.5,000/- towards funeral expenses, the same is enhanced to Rs.15,000/-, in view of the judgment of the Apex Court in **Pranay Sethi's** case (supra). Further, the Tribunal failed to award any amount towards loss of estate. Therefore, we hereby awarded an amount of Rs.15,000/- towards loss of estate in terms of the judgment of the Apex Court in **Pranay Sethi's** case (supra). Thus, the total compensation comes to Rs.24,40,732/- and respondents 1 and 2/claimants are entitled to the said compensation.

5. Hence, the award of the Tribunal is modified as indicated above, with proportionate costs. The apportionment of compensation shall be made in terms of the apportionment made by the Tribunal. The award shall relate back to the date of decree and the

compensation awarded shall carry interest at the rate and from the date specified by the Tribunal.

6. Accordingly, the appeal is partly allowed. Miscellaneous petitions, if any, pending in this appeal shall stand closed.

SURESH KUMAR KAIT, J

T. RAJANI, J

26th April, 2018
sj