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

MACMA No. 696 of 2017

JUDGMENT: (ORAL)

(Per Hon'ble Sri Justice Suresh Kumar Kait)

Vide the present appeal, the appellant/claimants have challenged the award dated 30-07-2015 in MV.OP.No.355 of 2012 on the ground that learned Tribunal have failed to add future prospects as per the age of the deceased at the time his death as 29 years in view of the dictum of Supreme Court in **National Insurance Company Limited v. Pranay Sethi**[1] which is not disputed by learned counsel for the respondent-Insurance Company and submits that deceased was joined in a private firm and thus he was not in a permanent job, future prospects would be added at the rate of 40%. We are of the view that since deceased was working with Forever Precious Jewellery and Diamonds Limited, Hyderabad and it was having headquarters at Ahmedabad and joined five months before the accident took place. Thus deceased was on the probation period. Accordingly we hereby take 40% in his income as future prospects. Keeping in view of age of deceased as 29 years as pointed out by learned counsel for the respondent-Insurance Company that learned Tribunal has awarded Rs.25,000/-

[1] 2017 ACJ 2700

towards funeral expenses instead of Rs.15,000/- and amount of Rs.1,00,000/- each awarded towards loss of estate and loss of consortium and love and affection instead of Rs.15,000/-, Rs.40,000/- respectively. The said fact has not been disputed by learned counsel for the appellants/claimants. Accordingly, we hereby reduce Rs.15,000/- in funeral expenses and Rs.15,000/- for loss of estate and Rs.40,000/- for loss of consortium and love and affection.

The annual income of deceased was assessed by the Tribunal at Rs.35,500/- per month and then the income per annum comes to Rs.35,500 x 12= Rs.4,26,000/- and by deducting @ 10% income tax on Rs.2,46,000/- i.e. after deducting the amount exempted for income tax at Rs.1,80,000/- and for remaining amount of Rs.2,46,000/- (Rs.4,26,000-1,80,000) the amount would be Rs.4,01,400/- and by adding future prospects at 40%, it comes to Rs.5,61,960/-. After deducting 1/3rd towards personal expenses, it comes to Rs.3,74,640/- (Rs.5,61,960/- - 1,87,320/-) The relevant multiplier for the age of deceased, which is 29 years, is '17' as per the decision of **Sarla Verma v. Delhi Transport Corporation**[2]. Hence the loss of future income to the claimants would come to Rs.3,74,640/-x 17= 63,68,880/-. Hence, the loss of future income to the claimant would come to

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[2] (2009) 6 SCC 121

Rs.63,68,880/-. 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 appellants are entitled to total compensation of Rs.64,38,880/-.

So far as the rate of interest is concerned, as the Tribunal granted it at 7.5% per annum, the same is maintained.

Accordingly, the award of the Court below is modified as indicated above, with proportionate costs. The apportionment of compensation shall be made in terms of the apportionment made by the Court below. 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.

The appeal is allowed in part. As a sequel, the miscellaneous applications, if any pending, shall stand closed.

JUSTICE SURESH KUMAR KAIT

JUSTICE T. RAJANI

25-04-2018
Nvl