IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2015

C O R A M

THE HONOURABLE Ms.JUSTICE K.B.K.VASUKI

C.M.A.No.1204 of 2011

1. Rathinambal
2. Venkatakrishnan
3. Venkataraman
4. Vijayarani
5. Susila @ Maniammal
6. Shanthi ...Appellants

Vs.

1. The Head Master,
Allasies Girls' Higher Secondary School,
Vettavallam Village and Post,
Tiruvanamalai District.

2. The Divisional Manager,
The United India Insurance Company Ltd.,
Vellore. ... Respondents

PRAYER:
Civil Miscellaneous Appeal filed against the judgment and decree, dated 15.11.2005, passed in M.A.C.T.O.P.No.877 of 2003, on the file of the Motor Accident Claims Tribunal (District Judge) Tiruvannamalai.

For Appellants : Mr.F.Terry Chellaraja

For Respondent-1 : Ex parte

For Respondent-2 : Mr.S.K.Krishnamurthy

JUDGEMENT

The claimants, who are the wife, married sons and daughters of one Sadhasivam, who is the victim of the fatal accident, are the appellants herein.

2. This Civil Miscellaneous Appeal is filed, claiming enhancement of compensation of Rs.3,15,592/- against the total claim of Rs.20,00,000/-.

3. The deceased was, at the time of the accident, aged 56 years, and was employed as Grade I Foreman in the Tamil Nadu Electricity Board. As per Ex.P.8, salary certificate, his gross salary was Rs.12,084/- and deduction was Rs.7,797/-, and the net salary was Rs.4,287/-

4. The Tribunal, taking into account, the net salary for the purpose of determining loss of dependency, applied split multiplier theory, and deducted 1/3rd from the net salary towards the personal expenses of the deceased and determined the annual loss of dependency at Rs.34,296/-, and total loss of dependency for the remaining two years service period as Rs.68,592/-. The Tribunal also calculated the loss of dependency during the pension period by taking into account the monthly pension amount of Rs.5,000/- and yearly pension amount of Rs.60,000/-, and, after deducting 1/3rd of the same, adopted the multiplier '6' and determined the loss of dependency at Rs.2,40,000/- and the total arrived at by the Tribunal towards the loss of dependency is Rs.3,08,592/- (68,592 + 2,40,000)

5. The grievance raised herein by the appellants is about the failure of the Tribunal to take into account the entire gross salary of the deceased instead of net salary. According to the learned counsel appearing for the appellants, the Tribunal ought to have, for the purpose of determining the loss of dependency, taken the gross salary and ought to have deducted 1/4th of the same, having regard to the number of dependents, and determined the loss of dependency of the claimants by adopting multiplier '9' for the age group between 50 and 60 years, as per the ratio laid down by the Hon'ble Supreme Court in the judgment rendered in Sarala Verma Vs. Delhi Transport Corporation, reported in (2009) ACJ 1298 (SC).

6. This Court finds greater legal force in the argument advanced on the side of appellants.

7. The second respondent/Insurance Company before the Tribunal, though duly served with notice and though duly represented by counsel, failed to represent the matter before this Court, when the case was called. Even otherwise, this Court, considering the monthly income of the deceased and the number of dependents, and the correct multiplier to be adopted is inclined to re-determine the loss of dependency in the following manner:-

i) Monthly income of the deceased is	:	Rs.12,000
1/4th deduction is	:	Rs.3,000/-
Loss of monthly dependency is	:	Rs.9,000/
Loss of yearly dependency is	:	Rs.1,08,000/-
Multiplier '9' is adopted	:	Rs.1,08,000/- x 9
		Rs.9,72,000/-

8. This Court is also inclined to award reasonable compensation for i) Funeral Expenses, ii) Loss of consortium to the first petitioner/wife, and iii) Loss of love and affection for the other petitioners. Total compensation is hence, enhanced as follows:-

i.	Loss of future Dependency	:	Rs.9,72,000/-
ii.	Funeral Expenses	:	Rs.10,000/-
iii.	Loss of Consortium to the first petitioner/wife	:	Rs.50,000/-
iv.	Loss of love and affection for others petitioners2 to 6 (20,000/- x 5)	:	Rs.1, 00,000/-
	Total	:	Rs.11,32,000/-

The total compensation of Rs.11,32,000/- is payable with interest at 7.5% p.a. from the date of Petition till date of deposit. Out of the total compensation amount, the first petitioner is entitled to get Rs.6,32,000/-, and the petitioners 2 to 6 are entitled to Rs.1,00,000/- each.

9. In the result, the compensation awarded by the Tribunal is enhanced from Rs.3,08,592/- to Rs.11,32,000/- with interest at 7.5% p.a. from the date of petition till date of payment and proportionate costs, excluding 307 days delay in filing the Appeal by the appellants/claimants. Time for deposit of the award amount less the amount already deposited is four weeks from the date of receipt of a copy of this judgment. On such deposit into Court, the first petitioner is permitted to withdraw Rs.3,00,000/- with entire interest accrued and costs due to her by filing separate Cheque Petition before the Tribunal and the balance sum of Rs.3,32,000/- shall be invested in any of the Nationalized Banks in a fixed deposit with cumulative effect, and the interest accrued thereon shall be paid to the first petitioner once in three months. The remaining petitioners, viz., claimants 2 to 6 are permitted to withdraw Rs.1,00,000/- each, by filing separate Cheque Petition.

10. This Civil Miscellaneous Appeal is accordingly allowed.

-s/d-
Assistant Registrar(CSIII)
dt:13/10/2015

True Copy

Sub-Assistant Registrar

To

The Motor Accident Claims Tribunal
(District Judge) Tiruvannamalai.

+1 cc to Mr.M.Malar Advocate sr.42184

C.M.A.No.1204 of 2011

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