IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2017

CORAM

THE HONOURABLE Dr.JUSTICE S.VIMALA

C.M.A.No.2398 of 2015
and C.M.P.No.11870 of 2017
and M.P.No.1 of 2015

The New India Assurance Co.Ltd.
Sankari Micro Branch No.1,
17/5-D-14, Ponnusamy Gounder
Complex, Tiruchengodu Main Road,
Sankari - 637 301, Salem. .. Appellant

/Vs/

1. A.Govindaraj
2. G.Pandivel
3. Rajalakshmi
4. Gurusamy
5. P.Mani
6. S.Muniyandi
7. Balasubramaniyam
8. Shriram General Insurance Co.Ltd.,
   E-8, EPIP, RIICO Industrial Area
   Sitapura, Jaipur, Rajasthan - 301 022.. Respondent

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 10.04.2015 made in M.C.O.P.No.2 of 2013 on the file of the Motor Accident Claims Tribunal, (IV Additional District Judge) at Erode District at Bhavani.

For Appellant : Mrs.R.Sree Vidhya

For Respondent : Mr.Ma.P.Thangavel
Nos.1 to 3

JUDGMENT

The appeal has been filed by the Insurance Company questioning the quantum of compensation awarded by the Tribunal as excessive.

2. Pandiammal, aged about 47 years, fruits and vegetable vendor, earning a sum of Rs.40,000/- per annum, died in an accident on 29.07.2012. The husband, son and daughter of the deceased have filed the claim petition for compensation claiming a sum of Rs.20,00,000/-.

3. The Tribunal has passed an award for a sum of Rs.15,15,000/- under the following break-up details;

Loss of Dependency (8000x12x13)	..	Rs.12,48,000/-
Loss of love and affection	..	Rs. 1,50,000/-
Loss of consortium	..	Rs. 1,00,000/-
For funeral expenses	..	Rs. 10,000/-
For transport expenses	..	Rs. 5,000/-
For damages	..	Rs. 2,000/-
Total	..	Rs.15,15,000/-

4. The learned counsel for the appellant would submit that the monthly income fixed at Rs.12,000/- is excessive and therefore, it requires proportionate reduction. It is also pointed out that when the claimants are sufficiently grown up and living away from the father and mother, they are not entitled to get compensation on the ground of dependency.

5. A perusal of the award of the claims tribunal would go to show that relying upon the decision reported in ***Sarala Verma Vs. Delhi Transport Corporation,*** loss of income has been quantified fixing monthly dependency at Rs.8,000/-, deducting 1/3rd towards personal expenses, adopting multiplier of 13, and this quantification is challenged as excessive and exorbitant.

6. The fact remains that the future prospective increase in income has not been considered by the claims tribunal at all. Therefore, even if the monthly income is taken at a lesser rate, if the future prospective increase in income is considered , the loss of dependency cannot be less than Rs.8,000/-. Apart from that, the house hold service rendered by the deceased as a home maker if taken into account while fixing the monthly income, the dependency will not be less than Rs.8,000/-. Therefore, monthly dependency cannot be fixed less than Rs.8,000/-. Therefore, the award on loss of income is confirmed.

6.1. So far as the loss of consortium and loss of love and affection are concerned, it should have been at the rate of Rs.75,000/- towards loss of consortium and Rs. 1,25,000/- towards loss of love and affection. Thus, the compensation stands reduced by Rs.50,000/-.

7. The over all reduction of compensation is Rs.50,000/-. Thus, the insurance company is liable to pay only a sum of Rs.14,65,000/-. This appeal is allowed to the extent indicated above. No costs. Consequently, connected miscellaneous petitions are closed.

8. It is represented that as per order of this Court dated 27.10.2015, a sum of Rs.9,43,000/- together with accrued interest and costs has already been deposited. The balance amount shall be deposited by the Insurance Company as determined by this Court before the Tribunal, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the claimants/respondents 1 to 3, as per the proportion fixed by the tribunal, through RTGS within a period of two weeks thereafter and the Insurance company is directed to withdraw the surplus amount, if any, which was deposited by it.

03.08.2017

Index : Yes/No
Internet : Yes/No
sms/kv

To

1. The Motor Accident Claims Tribunal,
   (IV Additional District Judge)
   Bhavani, Erode District,

2. The Section Officer, VR Section,
   High Court, Madras.

S.VIMALA,J.

sms/kv

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