IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2015

CORAM

THE HON'BLE MS. JUSTICE K.B.K.VASUKI

C.M.A.No.1684 of 2015

1.M.Chandran
2.C.Alli ...Appellants

Vs.

1. The Correspondent,
Selvam Arts and Science College,
No.10. Co-op Colony, Gandhi Nagar,
Mohanur Road, Namakkal Town.

2. M/s.United India Insurance Company Ltd.,
No.2, Dr.Sankaran Road,
Namakkal Town and District. ...Respondents

(1st respondent remained ex-parte before the Tribunal, hence notice may be dispensed with for the 1st respondent in this Appeal)

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree made in M.C.O.P.No.584 of 2009 on the file of the Motor Accidents Claims Tribunal/Principal District Court, Namakkal, dated 16.03.2012.

For Appellants : Mr.Ma.P.Thangavel

For Respondents: Mr.T.Ravichandran (R2)

J U D G M E N T

The claimants, who are the parents of the deceased who died in the fatal accident on 24.10.2009, are the appellants herein. The appellants filed M.C.O.P.No.584 of 2009 claiming compensation of Rs.10,00,000/-, whereas the Tribunal awarded Rs.4,80,000/- as follows:

i. Loss of income	: Rs.4,50,000/-
ii.Loss of love and affection	: Rs. 20,000/-
iii.Funeral expenses	: Rs. 10,000/-

Aggrieved against the same, the claimants have come forward with the present appeal for enhancement.

2. The learned counsel for the appellants, by relying upon the following judgments (i)2012 ACJ 2002 [Amrit Bhanu Shali and others Vs. National Insurance Co. Ltd and others]; (ii)2013 (2) TN MAC 55 (SC) [Rajesh & others Vs. Rajbir Singh & others]; (iii)2014 (2) TN MAC 6 (SC) [V.Mekala Vs. M.Malathi & anr.]; (iv) 2013 (1) TN MAC 641 (SC) [Vimal Kanwar & others Vs. Kishore Dan & others] and (v) 2012 (2) TN MAC 656 (SC) [New India Assurance Co. Ltd. Vs. Gopali & others], argued that the deceased was aged about 25 years and completed Diploma in Teacher Training and had he been alive, he would have secured Government job for a monthly salary of Rs.20,000/- and he was the only son for the parents and the parents had no chances of begetting another child and had he been alive, he would have well taken care of his parents and the parents have been deprived of not only financial support, but also the love and affection of their only son.

3. The learned counsel for the appellants questioned the correctness of the award with regard to the fixation of Rs.5,000/- as notional monthly income, deduction of 50% from the income of the deceased, the multiplier of 15 adopted depending upon the age of the mother at 44 years and also the award of compensation of Rs.20,000/- for loss of love and affection.

4. It is contended before this Court having regard to the educational qualification of the deceased, the notional monthly income ought to have been fixed, reasonably, at Rs.10,000/-, with Rs.5,000/- towards future prospects and as the deceased is the only son, the multiplier ought to have been adopted depending upon the age of the deceased at 25 years and the Tribunal ought to have adopted 1/3rd deduction from the income of the deceased while arriving at monthly loss of dependency for the purpose of determining the loss of total dependency. It is also contended that the deceased being the only son, the compensation for the loss of love and affection ought to have been fixed at a higher rate.

5. The contention so raised on the side of the appellants is seriously opposed by the learned counsel for the 2nd respondent/Insurance Company.

6. Heard the rival submissions and perused the records.

7. There is enough evidence adduced on the side of the appellants to prove the educational qualification of the deceased and his proficiency in sports and the age of the deceased and that of the parents and that the deceased is the only son of the parents. Considering the educational qualification of the deceased, the age of the mother and the fact that he was the only son of the parents, this Court deems it fit to fix the notional monthly income at Rs.10,000/- and to deduct 1/3rd from the salary of the deceased towards his personal

and living expenses. Regarding the multiplier, the same is, in my view, considerable and needs no modification. The amount of Rs.10,000/- awarded towards funeral expenses also needs no modification. As far as the compensation with regard to the loss of love and affection, the amount awarded by the Tribunal being too low is enhanced to Rs.50,000/- from Rs.20,000/-.

8. On the above factors, the enhanced compensation is as follows:

i. Loss of future income (Rs.15,000/-x1/3x12x15)	:	Rs.18,00,000/-
ii.Loss of Love and Affection	:	Rs. 50,000/-
iii.Funeral Expenses	:	Rs. 10,000/-
Total		Rs.18,60,000/-

The enhanced amount of Rs.13,80,000/- (Rs.18,60,000 - Rs.4,80,000) shall be payable together with interest at 7.5% per annum from the date of petition. The second respondent/ insurance company shall deposit the balance compensation award within a period of four weeks from the date of receipt of a copy of this judgment. The appellants/claimants are entitled to their share as apportioned by the Tribunal and they are at liberty to effect withdrawal on due cheque petition.

9. The Civil Miscellaneous Appeal is accordingly allowed. No costs.
Va

Sd/-
Assistant Registrar

/True Copy/

Sub-Assistant Registrar

To

The Motor Accidents Claims Tribunal/
Principal District Court,
Namakkal.

+1 C.C. To MR.T.Ravichandran, Advocate in SR.NO.39590

+1 C.C. To MR.Ma.P.Thangavel, Advocate in SR.NO.59813

C.M.A.No.1684 of 2015

SVI(CO)
sd : 13/10/2015