IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22..07..2015

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

C.M.A. No. 2216 of 2011

1. Jayalakshmi
2. Arulmozhi
3. Aravintham
4. Karthikeyan
5. K. Jayaraman
6. Tmt. Sivagami ..Appellants(Petitioners)

Vs.

The Superintendent of Police,
Vellore. ..Respondent(Respondent)

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 12.10.2009 passed in M.C.O.P. No. 4466 of 2006 by the Motor Accidents Claims Tribunal (Chief Small Causes Court), Chennai.

For Appellants :: Mr.K. Varadha Kamaraj

For Respondent :: Mr.M. Venugopal,
Special Govt. Pleader (CS)

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the claimants, as against the award of Rs. 4,06,380/- passed by the Motor Accidents Claims Tribunal (Chief Court of Small Causes), Chennai, for the death of one J. Anbazhagan, husband of the 1st appellant, aged about 51 years, who was working as Inspector of Police, in the accident, which occurred on the midnight of 9/10.03.2005.

2. Heard Mr.K. Varadha Kamaraj, learned counsel for the appellants and Mr.M. Venugopal, learned Special Government Pleader (CS) for the respondent, who would support the award stating that a reasonable amount has been awarded and no interference is called for.

3. The only issue in question is with regard to the quantum of compensation as no appeal has been preferred by the respondent against the award questioning the liability.

4. It is evident from the records that the deceased was working as an Inspector of Police and as per Ex-P7, Salary

Certificate, the deceased was earning about Rs.13,573/- per month as gross salary. From Exs-P6, P7, P8 and P9, Identity Card, Salary Certificate, Xerox Copy of School Transfer Certificate and Conduct Certificate, respectively, it is seen that the deceased was aged about 52 years. The Tribunal, took Rs.7110/- as net salary of the deceased and after deducting one-third towards "Personal Expenses", adopted multiplier 6 to arrive at Rs.3,41,280/- as "Loss of Income" ((Rs.7110/- (-) 1/3 (Rs.7110/-) x 12 x6).

5. As rightly pointed out by Mr.Varadha Kamaraj, learned counsel for the appellants, the Honourable Apex Court in Puttamma and others V. K.L. Narayana Reddy and another reported in 2014 ACJ 526 and Sarla Devi and others v. Divisional Manager, Royal Sundaram Alliance Insurance Company Limited and another reported in 2014 2 TN MAC 546, wherein the Honourable Apex Court has held that application of split multiplier is not proper and hence, split multiplier method adopted by the Tribunal is set aside.

6. As per Ex-P7, Salary Certificate, the monthly income of the deceased was Rs.13,573/-. However, the Tribunal erred in taking only the net salary, namely, Rs.7110/-. Hence, the gross salary of the deceased, namely, Rs.13,573/- is taken as his monthly income. Since the deceased was aged about 52 years, 15% is added towards "Future Prospects". Hence, the total monthly income would be,

Total Monthly Income	::	(Rs.13,573/-) (+) 15% (Rs.13,573/-)
	::	Rs.15,609/-

Though the size of the family of the deceased is more than four, considering the fact that appellants 5 and 6 are parents of the deceased, this Court deducts one-third towards "Personal Expenses" and the "Monthly Contribution of the deceased to his family" would be,

Total Monthly Income	::	Rs.15,609/-
Less: 1/3rd towards "Personal Expenses "	::	Rs.15,609/- (-) 1/3 (Rs.15,609/-)
Monthly contribution of the deceased to his family	::	Rs.10,406/-

Since the deceased was aged about 52 years, the appropriate multiplier as per Sarla Verma's case is 11. Applying the said multiplier, "Loss of Income" is calculated as hereunder:

Loss of Income	::	Rs.10,406/- x 12 x 11
	::	Rs.13,73,592/-

The Tribunal awarded only a sum of Rs.10,000/- towards "Loss of consortium", which is very meagre and the same is enhanced to Rs.50,000/-. The sum of Rs.50,000/- awarded towards 'Loss of love and affection" to appellants 2 to 6 together is reasonable and the same is confirmed. The amount of Rs.5000/- awarded towards "Transportation and Funeral Expenses" is very low and the same is enhanced to Rs.15,000/-. In all, a sum of Rs.14,88,592/- rounded off to Rs.14,50,000/- is payable as compensation to the appellants. The rate of interest awarded by the Tribunal @ 7.5% per annum is confirmed.

7. The respondent is directed to deposit the entire amount, as per the modified award passed by this Court, with interest and costs, before the Tribunal, within a period of 10 weeks from the date of receipt of a copy of this order failing which the Superintendent of Police shall appear before this Court on expiry of the said period. On such deposit being made, the appellants are permitted to withdraw their respective shares, as per the apportionment of the Tribunal, within a period of one week thereafter. The appellants shall pay additional court-fee for the enhanced amount, if any.

8. In the result, the Civil Miscellaneous Appeal is allowed and the award passed by the Tribunal, to the tune of Rs. 4,06,280/- is enhanced to Rs.14,50,000/-. No costs.

9. Call the matter for reporting compliance after ten weeks.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

nv
To
1.The MACT (Chief Judge, SCC), Chennai.

2.The Superintendent of Police,
Vellore (with Direction to comply the orders failing which he shall appear before this Court)

+2 cc to M/s.K.VaradhaKamaraj Advocate sr.31744,37400

C.M.A.No. 2216 of 2011

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