IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2015

CORAM

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

C.M.A. No. 219 of 2015
&
M.P. No. 1 of 2015

M/s. United India Insurance Co. Ltd.,
Division Office - III,
E.P. Building,
No.24, Mill Road,
Coimbatore - 641 001. ...Appellant/Respondent III

Vs.

1. Mrs. Rajathi
2. Mr.Kumaresh
3. Minor Ramesh
   rep. By Guardian and Mother
   Rajathi
4. Mrs. Valliammal
5. Mr. Periyasamy ...Respondents 1 to 5/Petitioners 1 to 5

6. Mr. Arjun Singh Bhayal Singh
7. Mr. Ramesh ...Respondents 6 & 7/Respondents 1 & 2

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 06.02.2013 passed in M.C.O.P. No. 650 of 2011 by the Motor Accidents Claims Tribunal (Additional District III Court), Dharapuram District.

For Appellant : Mr.J. Chandran

For Respondents : Mr.S. Dhanasekaran for R1, R2, R4 & R5

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the Insurance Company as against the award of Rs.11,80,000/- for the death of one Chinnathambi, aged about 37 years, in the accident, which occurred on 22.05.2011 when the two-wheeler, driven by him, was hit by a Jeep, belonging to the 7th respondent and insured with the appellant, driven in a rash and negligent manner.

2. Heard Mr.J. Chandran, learned counsel for the appellant and Mr.S. Dhanasekaran, learned counsel for respondents 1,2,4 & 5.

3. The only point raised by the appellant is that as per the judgment rendered in Sarla Verma's case ((2009) 2 TN MAC 1 (SC), instead of one-fifth deduction, one-fourth deduction should have been made towards "Personal Expenses" of the deceased.

4. A perusal of the records would show that the argument of the learned counsel for the appellant, based on the Apex Court's judgment in Sarla Verma's case is sound. Accordingly, deducting one-fourth towards "Personal Expenses" and applying multiplier 15, as adopted by the Tribunal, taking the monthly income as Rs.7500/- determined by the Tribunal, "Loss of Income" works upto ((Rs.7500) (-) ¼ (Rs.7500)) x 12 x 15 = Rs.10,12,500/-.

5. However, only a sum of Rs.25,000/- was awarded towards "Loss of Consortium" to the 1st respondent/wife of the deceased. Hence, the said amount is enhanced to Rs. 1 lakh following the judgment of the Honourable Apex Court rendered in Rajesh and others V. Rajbir Singh and others (2013 (3) CTC 883). The other amounts, namely, Rs.4500/- awarded towards 'Transportation Expenses"; Rs.10,000/- towards "Funeral Expenses"; Rs.60,000/- towards "Loss of love and affection" and Rs.500/- towards "Damages to Clothes" are confirmed. Hence, the award of Rs.11,80,000/- passed by the Tribunal is enhanced to Rs.11,87,500/- with interest @ 7.5% per annum.

6. The appellant Insurance Company is directed to deposit the entire amount, as per the modified award passed by this Court, with interest, before the Tribunal, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, respondents 1, 2, 4 & 5 are permitted to withdraw their respective shares, as per the ratio fixed by the Tribunal. As far as the share of the 3rd respondent,who is a minor, is concerned, the same shall be deposited in any one of the Nationalised Banks, in interest bearing

Fixed Deposit, till he attains majority. The 1st respondent is permitted to withdraw interest accruing on such deposit once in three months.

7. The Civil Miscellaneous Appeal is disposed of accordingly. No costs. Connected M.P.is closed.

Sd/-
Deputy Registrar(J)

//True Copy//

Sub Assistant Registrar

nv

To

The MACT (Additional District Court No.3),
Dharapuram.

1 CC to Mr.J. Chandran, Advocate SR.No. 6184

C.M.A. No. 219 of 2015

CA (CO)
PSI (12.03.2015)