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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.01.2015

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THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A. No. 35 of 2015

&

M.P. No. 1 of 2015

The Manager,
Oriental Insurance Company Limited,
UIL Building, 4th Floor, 8, Esplanade,
Chennai 108.

..Appellant/2nd Respondent

Vs.

1. Kasi ...Respondents 1 & 2/Cliamnts

2. Neelambal

3. The Manager,
Chettinad Logistics Pvt. Ltd.,
Rani Seethai Hall,
6th Floor, 603,
Anna Salai, Chennai.

..3rd Respondent/Ist Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of MV Act, as against the judgment and decree dated 05.08.2014 made in M.C.O.P. No. 308 of 2011 by the Motor Accidents Claims Tribunal (III Addl. District and Sessions Court), Cuddalore at Vridhachalam.

For Appellant :: Mr.S. Manohar

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.14,73,000/- for the death of one Thennarasu, in the accident, which occurred on 08.12.2010. The said Thennarasu is the son of respondents 1 and 2 and he was working as a labourer in a Foreign Country, aged about 25 years, earning Rs.20,000/- per month.

2. Heard Mr.S. Manohar, learned counsel for the appellant, who would submit that the Tribunal, in the absence of any material proof, determined the montly income of the deceased at Rs.10,000/- and added 50% towards "Future Prospects" and therefore, appropriate deduction has to be made.



3. However, the Tribunal, by relying upon Ex-P8, Original Passport Book and Ex-P9, Salary Certificate, received by the 1st and 2nd respondents, from the Company, according to which a sum of Rs.13,308/- was given as family benefit, was of the opinion that the deceased would have earned more than Rs.13,308/-. However, in the absence of any proof, the Tribunal rightly determined Rs.10,000/- as monthly income. This Court takes judicial note of the fact that no person would get salary lesser than Rs.10,000/- per month in a foreign job and if the salary is less than Rs.10,000/- then no person would opt for the said job. The factum of foreign employment is proved by Exs-P8 and P9. Therefore, the Tribunal rightly fixed Rs.10,000/- as monthly income and added 50% towards future prospects as the deceased was aged about 25 years, following the judgment of the Honourable Apex Court rendered in Sarla Verma's case ((2009 2 TN MAC 1 (SC)). In such circumstance, the determination of monthly income and addition of 50% towards "Future Prospects" cannot be found fault with.

4. Similarly, the Tribunal deducted 50% towards "personal expenses", as the deceased was a bachelor and adopted multiplier 17 as per the age of the deceased. Further, 10% was rightly deducted towards income-tax and "Loss of Income" was determined as Rs.13,77,000/- as hereunder:

Monthly Income	::	Rs.10,000/-
Add: 50% towards Future Prospects	::	Rs.10,000/- + 50%(Rs.10,000/-)
Total Monthly Income	::	Rs.15,000/-
Less: 50% towards personal expenses	::	Rs.15,000/- (-) 50% (Rs.15,000/-)
	::	Rs.15,000 (-)Rs.7500/-
	::	Rs.7500/-
Less:10% towards income tax	::	Rs.7500/- (-)10% (Rs.7500/-)
Monthly Contribution to the family	::	Rs.6750/-
Annual contribution	::	Rs.6750 x 12
Applying multiplier 17		
Loss of Income	::	Rs.6750 x 12 x 17
	::	Rs.13,77,000/-

The sum of Rs.50,000/- awarded towards "Loss of love and affection" to the 1st and 2nd respondent and Rs.10,000/- awarded towards "Funeral Expenses" are confirmed. Though no amount was awarded towards "Transportation Expenses" and "Loss of Estate", taking



into consideration, the award of Rs.14,37,000/-, this Court is not enhancing the compensation. The rate of interest awarded by the Tribunal at 7.5% per annum stands confirmed. The ratio fixed by the Tribunal regarding apportionment of compensation amount holds good.

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5. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Connected M.P. Is closed.

6. The appellant is directed to deposit the entire award amount, with interest and costs, 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, as per the direction of the Tribunal, the said amount shall be deposited in any Nationalised Bank, in interest bearing Fixed Deposit, for a period of three years.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Motor Accident Claims Tribunal, (III Addl. Dist and Sessions Court), Cuddalore, Vridhachalam.

2.The Section Officer, V.R.Section, High Court, Madras.

1 cc to Mr.S.Manohar ,Advocate, SR.No.2137

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pmk.19.3.2015