In the High Court of Judicature at Madras

Dated : 25.6.2015

Coram :

The Honourable Mr.Justice V.RAMASUBRAMANIAN

and

The Honourable Mr.Justice T.MATHIVANAN

Civil Miscellaneous Appeal No.354 of 2015 and M.P.Nos.1 & 2 of 2015

The New India Assurance Co.Ltd.,
Chennai-1. ...Appellant

Vs

1.R.Chitra
2.V.Raja Manohar
3.R.Mohana
4.Dinakaran ...Respondents

APPEAL under Section 173 of the Motor Vehicles Act against the award dated 8.8.2014 made in M.C.O.P.No.446 of 2012 on the file of the Motor Accidents Claims Tribunal (Sixth Judge, Court of Small Caues), Chennai.

For Appellant : Mr.M.Krishnamoorthy
For Respondents 1 to 3 : Mr.F.Terry Chellaraja
For Respondent-4 : No appearance

JUDGMENT WAS DELIVERED BY V.RAMASUBRAMANIAN,J

This appeal is by the Insurance Company challenging an award passed by the Motor Accidents Claims Tribunal.

2. Heard Mr.M.Krishnamoorthy, learned counsel for the appellant and Mr.F. Terry Chellaraja, learned counsel for the respondents 1 to 3.

3. In a road traffic accident that occurred on 15.11.2011, a person by name Vignesh, who was aged about 27 years and who was a bachelor, died. Therefore, his parents and sister filed a claim petition in M.C.O.P.No.446 of 2012 claiming compensation in a sum of Rs.30 lakhs. By an award passed on 8.8.2014, the Tribunal granted compensation in a sum of Rs.32,64,500/-. Aggrieved by the said award, the Insurance Company is on appeal.

4. The main grievance of the Insurance Company is to the quantum of compensation awarded. On the question of liability, there are no serious objections. The evidence on record is also clear and hence, the Insurance Company cannot question its liability.

5. On the quantum, the fact that the deceased was aged about 27 years is borne out by records. Ex.P.6 is the pay slip filed by the claimants. It showed that the take home pay of the deceased was Rs.21,983/-. But, the Tribunal took only Rs.15,000/- per month and hence, the Insurance Company can have no grievance about the same. Since the deceased was aged 27 years, the Tribunal applied the correct multiplier of 17 and hence, the same also does not call for any interference.

6. The award of Rs.25,000/- towards funeral expenses, Rs.1 lakh towards loss of love and affection and Rs.79,500/- towards reimbursement of medical expenses cannot also be objected to, as they are all in accordance with the principles well laid down.

7. The main grievance of the appellant is with regard to the addition of 50% towards future prospects and the deduction of 1/3rd towards personal expenses in respect of a bachelor.

8. It is true that on the question of addition of future prospects, there has been varying opinions. But, in the case on hand, we do not wish to interfere with the addition of 50% towards future prospects for the simple reason that Ex.P.6 - pay slip indicated the monthly income to be Rs.21,893/- and the Tribunal took only Rs.15,000/- as the monthly income. If the Tribunal had gone by the uncontroverted evidence in the form of Ex.P.6, the same amount namely Rs.22,000/- would have been arrived at without adding 50% towards future prospects. Hence, we do not wish to interfere with the addition of 50% towards future prospects.

9. But, the deduction of 1/3rd towards personal expenses in respect of a bachelor does not appear to be proper. We see from paragraph 13 of the award of the Tribunal that the Tribunal has actually projected two alternatives. Both these alternatives are not strictly in accordance with law. In the first alternative, the

Tribunal added 100% towards future prospects and deducted 50% towards personal expenses. In the second alternative, the Tribunal added 50% towards future prospects and deducted 1/3rd towards personal expenses. Such alternatives do not have a role to play. Each item should be considered independently and not in combination with one another. Therefore, the only mistake committed by the Tribunal, in our opinion, was the deduction of 1/3rd of the income instead of 50%.

10. If 50% of the income is deducted towards personal expenses, the compensation payable for loss of dependency would work out as follows :

"Monthly Income	*: Rs.15,000/-*
Addition of 50% towards future prospects	*: Rs.7,500/-*
Total	*: Rs.22,500/-*
Deduction of 50% towards personal expenses	*: Rs.11,250/-*
Loss of dependency	*: Rs.11,250/- X 12 X 17*
Total	*: Rs.22,95,000/-"*

11. Therefore, the compensation would work out as follows :

"Loss of dependency	*: Rs.22,95,000/-*
Funeral expenses	*: Rs.25,000/-*
Loss of love and affection	*: Rs.1,00,000/-*
Medical expenses	*: Rs.79,500/-*
Total	*: Rs.24,99,500/-*
Rounded off to	*: Rs.25,00,000/-"*

12. Hence, the civil miscellaneous appeal is partly allowed and the award of the Tribunal is modified to the extent that the respondents 1 to 3/claimants will be entitled to a total compensation of Rs.25,00,000/- (Rupees twenty five lakhs only) together with interest and costs as awarded by the Tribunal. No costs. Consequently, the connected MPs are closed.

13. Since the appellant has deposited only 50% of the amount, the balance award amount to the extent indicated in this judgment shall be deposited together with interest and costs within a period of six weeks. On such deposit, the respondents 1 to 3/claimants are permitted to withdraw their shares as apportioned by the Tribunal.

25.6.2015

Internet : Yes

To
The Registrar, Small Causes Court, Chennai.

RS

<u>V.RAMASUBRAMANIAN,J</u>
<u>AND</u>
<u>T.MATHIVANAN,J</u>

RS

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& MP.Nos.1 & 2 of 2015

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