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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 24-03-2015

CORAM:

THE HONOURABLE MR. JUSTICE N.K. KIRUBAKARAN

C.M.A.No.41 of 2015

and

M.P.No.1 of 2015

M/s. New India Assurance Co. Ltd.,
No.45, Moore Street, 5th Floor
Chennai - 600 001

Appellant/2nd Respondent

Vs.

1. Tmt. Dhanalakshmi
2. Minor K. Saraswathi @ Sarasu
3. Minor K. Sandhya
4. Tmt. Seenammal
5. Mr.S.P. Ravi

Respondents 1 to 4/Claimants
5th Respondent/1st Respondent

Civil Miscellaneous Appeal under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree passed in M.C.O.P.No.874 of 2012 on 24-03-2014 on the file of the learned Motor Accident Claims Tribunal (II-Judge) Small Causes Court at Chennai.

For appellant :: Mr. J. Chandran

For respondents

1 to 4 :: Mr. Varadha Kamaraj

JUDGMENT

The appeal has been filed by the Insurance Company against the award of Rs.11,52,600/- (Rupees Eleven Lakhs fifty two thousand and six hundred only), awarded as compensation for the death of one Krishnamurthy, 49 years old(age fixed as per Ex-P5, post-mortem certificate) because of the accident that occurred on 01-01-2012, when he was riding as a pillion rider in the Motor cycle bearing registration No.TN-21-AW-6788.

2. Heard Mr. J. Chandran, learned counsel for the appellant and Mr. Varadha Kamaraj, learned counsel appearing for the respondent-claimant.



3. Though the claimants alleged that Rs.15,000/- (Rupees Fifteen thousand only) was earned by the deceased, in the absence of any positive evidence, the Tribunal rightly determined the monthly income as Rs.6000/- (Rupees Six thousand only) and added 30% towards future prospects, as per the decision of the Honourable Supreme Court in Smt. Sarala Varma & Others Vs. Delhi Transport Corporation (2009 5 LW 561) and determined the monthly income as Rs.7800/- (Rupees Seven thousand and eight hundred only).

4. Considering the size of the family namely, five, one-fourth was rightly deducted following the judgment cited supra. Similarly, for the age of 49, the right multiplier 13 was adopted and the loss of income determined as Rs.9,12,600/- (Rupees Nine lakhs twelve thousand and six hundred only) is justifiable.

5. A sum of Rs.20,000/- (Rupees Twenty thousand only) was awarded as compensation towards funeral expenses, Rs.50,000/- (Rupees fifty thousand only) towards loss of companionship, Rs.50,000/- (Rupees Fifty thousand only) and Rs.20,000/- (Rupees twenty thousand only) towards loss of love and affection to the respondent Nos.2,3 and 4 and they are confirmed. However, Rs.1,00,000/- awarded towards loss of expectation of life is unwarranted and the same is deleted.

6. In view of the above, the actual award of compensation of Rs.11,52,600/- (Rupees Eleven Lakhs fifty two thousand and six hundred only) is reduced to a sum of Rs.10,52,600/- (Rupees Ten Lakhs fifty two thousand and six hundred only) with interest at the rate of 7.5%.

7. The appellant is directed to deposit the entire amount, after deducting the amount, if any already deposited, along with interest and costs, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the respondent/claimants are permitted to withdraw their respective share as fixed by the Tribunal within a period of one week, except the minor's share which shall be deposited in interest bearing fixed deposit with the Indian Bank, High Court branch, till they attain majority.

8. The civil miscellaneous appeal is partly allowed. No costs. The miscellaneous petition is closed.

glp

-s/d-

Assistant Registrar()

True Copy

Sub-Assistant Registrar



To

The II Motor Accident Claims Tribunal
Small Causes Court
Chennai.

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+ 1 cc to Mr.K.Varadha Kamaraj, Advocate SR 16548

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