IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 14.07.2015
CORAM
THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN
C.M.A. No. 555 of 2015

1. K. Usha
2. S. Pattammal
3. P. Divyashree (minor)
4. U.P. Jeyandaran (minor)

3 & 4 minors represented by mother next friend and natural guardian K. Usha

5. S. Sadaksharam ..Appellants/Petitioners

Vs.

1. M/s. Hilti India Private Ltd., No.79, Tiny Sector, Industrial Estate, Guindy, Chennai - 600 032.

2. Royal Sundaran Alliance Insurance Company Ltd., No.1, Club House Road, Mount Road, Chennai 600 002. ..Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act as against the judgment and decree dated 09.2.2013 passed in M.A.C.T.O.P. No. 1189 of 2012 by the Motor Accidents Claims Tribunal (IV Judge, Court of Small Causes), Chennai.

For Appellant :: Mrs.Salim Fathima for Ms.V. Nalini

For Respondents :: Mrs. Harini for Mr.N. Vijayaraghavan

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the claimants aggrieved over the award of Rs. 12,67,000/- passed by the Motor Accidents Claims Tribunal (IV Judge, Court of Small Causes), Chennai, for the death of one S. Prabakaran, husband of the 1st appellant, aged about 28 years, a Lab Technician and a Partner in a Fast Food outlet, alleged to have been earning about Rs.18,000/- per month, in the accident, which occurred on 01.01.2012.

2. Heard Mrs. Salim Fathima, learned counsel for the appellants and Mrs. Harini, learned counsel for the 2nd respondent Insurance Company.

3. Though it was claimed by the claimants that the deceased was earning Rs.18,000/- per month, the Tribunal took only Rs.8000/- per month as the income of the deceased stating that Ex-P6, Salary Certificate of the deceased, which was marked through P.W.3, a staff of M/s. Joint Centre where the deceased was employed as Lab Technician, cannot be relied upon. In the absence of acceptable proof with regard to the employment of the deceased and his income therefrom, the Tribunal rightly rejected Ex-P6 as well as the evidence of P.W.3. However, the sum of Rs.8000/- determined by the Tribunal as monthly income of the deceased cannot be accepted. Therefore, this Court, following the judgment of the Honourable Apex Court rendered in ***Syed Sadiq V. Divisional Manager, United India Insurance Co. Ltd*** reported in ***2014 (1) TN MAC 459 (SC)***, determines Rs.6500/- as the monthly income of the deceased. Further, adding 50% towards "Future Prospects", Rs.9,750/- (Rs.6500/- + 50% (Rs.6500/-)) is fixed as the total monthly income of the deceased.

4. Since the family of the deceased consists of 5 members, it is appropriate to deduct one-fourth towards "Personal Expenses". Therefore, "Monthly Contribution of the deceased to his family" would be,

Total Monthly Income :: Rs.9,750/-
Less: One-fourth towards
"Personal Expenses" :: Rs.9,750/- (-) ¼ (Rs.9,750/-)
"Monthly Contribution of the
deceased to his family" :: Rs.7,312/-

Since the age of the deceased was 28 years, at the time of accident, the Tribunal adopted multiplier 16 as per II Schedule to Motor Vehicles Act, 1988. However, the appropriate multiplier, as per the judgment of the Honourable Court in ***Sarla Verma's case, (2009 2 TN MAC 1 (SC))***, is 15 and applying the said multiplier, "Loss of Income" is computed as hereunder:

Loss of Income :: Rs.7,312 x 12 x 15
:: Rs.13,16,160/-

5. The 1st appellant was aged about 28 years and losing one's husband at such a young age, that too, with two minor children, would be very painful and though the physical and mental agony, which she is likely to undergo, cannot be compensated in terms of money, however, in an earnest attempt to provide solace, this Court, following the judgment of the Honourable Apex Court in ***Rajesh and others V. Rajbir Singh and others*** reported in ***2013 3 CTC 883***, enhances the amount of Rs.25,000/- awarded towards "Loss of Consortium" to Rs.1 lakh. Towards "Loss of love and affection", only a sum of Rs.25,000/-was awarded to each of the minors, namely, appellants 3 and 4 and the same is enhanced to Rs.50,000/- each. The sum of Rs.10,000/-

awarded towards "Loss of love and affection" to appellants 1, 2 and 5 is confirmed. The amount of Rs.10,000/- awarded towards "Funeral Expenses" is too low and the same is enhanced to Rs.25,000/-. In all, a sum of Rs.15,71,160/- rounded off to Rs.15,50,000/- is payable as compensation to the appellants. The rate of interest awarded by the Tribunal at 7.5% per annum remains intact.

6. The 2nd respondent Insurance Company is directed to deposit the entire amount, as per the modified award passed by this Court, with interest and costs, after deducting the amount already deposited, if any, 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, appellants 1, 2 and 5 alone are permitted to withdraw their respective shares of the amount awarded by the Tribunal alone, as per the ratio fixed by the Tribunal. The share of the minors, in respect of the award amount passed by the Tribunal, as per the ratio fixed by the Tribunal, shall be re-invested in interest bearing Fixed Deposit, in any one of the Nationalised Banks, till they attain majority. The enhanced compensation amount is also to be re-invested in the name of the minors equally in any one of the Nationalised Banks, in interest bearing Fixed Deposit, till they attain majority. The 1st appellant is permitted to withdraw interest accruing on such deposits, once in three months. The appellants shall pay additional court-fee for the enhanced amount.

7. In the result, the Civil Miscellaneous Appeal is allowed enhancing the compensation awarded by the Tribunal, from Rs.12,67,000/- to Rs.15,50,000/-. No costs. Connected M.P. is closed.

-s/d-
Assistant Registrar(CSII)
dt:17/08/2015

True Copy

Sub-Assistant Registrar

To
The MACT (IV Judge, Court of Small Causes),
Chennai.
+1 cc to Mr.N.VijayaRaghavan, Advocate sr.35912
+1 cc to Mrs.V.Nalini, Advocate sr.35946

C.M.A. NO. 555 of 2015

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