IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2015

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

C.M.A.No.794 of 2015

1. K. Savithri
2. K. Ranjeeth
3. K. Ranjani
4. K. Munisamy @ Vinoth ..Appellants/Petitioners

Vs.

1. P.Sebester
2. M.V. Jabbar

3. The New India Assurance
   Company Limited,
   rep. by its Branch Manager,
   Bharathiar Road,
   Karaikal. ..Respondents/Respondents

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 15.12.2008 passed by the Motor Accidents Claims Tribunal (Addl. District Court), Karaikal, in M.C.O.P. No. 201 of 2007.

For Appellants :: Mr.R. Natarajan

For Respondents:: Mr.K. Padmanabhan for R3

JUDGMENT

This Civil Miscellaneous Appeal has been preferred by the claimants as against the award of Rs.3,77,549/- awarded by the Motor Accidents Claims Tribunal (Addl. District Court), Karaikal, for the death of one Kaliyaperumal, aged about 54 years, P.W.D Work Inspector, in the accident, which occurred on 30.05.2007.

2. Heard Mr.R. Natarajan, learned counsel for the appellants and Mr.K. Padmanabhan, learned counsel for the 3rd respondent.

3. The issue of liability was already decided by this Court in the appeal filed by the Insurance Company by judgment dated 26.03.2012 in C.M.A. No. 662 of 2012 wherein this Court directed the Insurance Company to pay the compensation and recover the same from the owner of the car. While doing so, this Court reserved the right to file an appeal for

enhancement of compensation. Therefore, the question of going into the aspect of liability does not arise and the only question to be decided is with regard to the quantum of compensation.

4. The occupation of the deceased was proved by the claimants by Ex-P14, Pay Slip, Ex-P17, Service Certificate and Ex-P18, Pay Certificate issued by the Public Works Department, stating that he was working as a Work Inspector in Irrigation and Public Health Division, P.W.D., Karaikal. As per Ex-P18, Pay Certificate, the total salary drawn by the deceased was Rs.9,639/- and a sum of Rs.3,115/- was shown as deduction. Therefore, the Tribunal took only Rs.6,524/- as monthly income and taking the rest of the period of service, as criterion, adopted split multiplier method and calculated "Loss of Income" at Rs. 3,30,549/-, after deducting one-third towards "Personal Expenses" and together with other amounts, a sum of Rs.3,77,549/- was awarded as compensation.

5. As rightly contended by Mr. R. Natarajan, learned counsel for the appellants, deduction should not have been made from the total monthly salary and the total earning of the deceased should have been taken into consideration. In view of that, Rs.9,679/-, as proved by Ex-P18, is determined as monthly income. Adoption of split multiplier method was not approved by the Honourable Apex Court in K.R. Madhusudhan V. Administrative Officer reported in 2011 ACJ 743 (SC) and therefore, the split multiplier method adopted by the Tribunal is set aside. According to Ex-P8, Birth Certificate, the deceased was born on 5.7.1953 and as on the date of the accident, he was aged about 54 years. For 54 years, the appropriate multiplier is 11. Since the size of the family is four, one-fourth is required to be deducted towards "Personal Expenses". Therefore, "monthly contribution of the deceased to his family" would be,

Monthly Income :: Rs.9639/-

LESS: ¼ towards "Personal

Expenses" :: Rs.9639/- (-) ¼ (Rs.9,639/-)

Monthly Contribution of
the deceased to his family:: Rs.7,229.25

Applying multiplier 11, "Loss of Income" is calculated as follows:

Loss of Income :: Rs.7229.25 x 12 x11

:: Rs.9,54,261/-

It is shocking to note that only a sum of Rs.5,000/- was awarded towards "Loss of Consortium" to the 1st appellant, which is too low. Hence, following the judgment of the Honourable Apex Court rendered in Rajesh and others V. Rajbir Singh and others (2013 3 CTC 883), a sum of Rs. 1Lakh is awarded under the said head. Similarly, the sum of

Rs.40,000/- awarded towards "Loss of love and affection" to the children is too low and the same is enhanced to Rs.60,000/-. Likewise, the sum of Rs.2000/- awarded towards "Funeral Expenses" is enhanced to Rs.15,000/- under the caption "Funeral and Transport Expenses" as no amount was awarded towards "Transport Expenses". In all, a sum of Rs.11,29,261/- rounded off to Rs.11,30,000/- is payable as compensation to the appellants. The rate of interest awarded by the Tribunal @ 7.5% per annum remains unaltered.

6. The 3rd 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, the appellants are permitted to withdraw their respective shares, as per the apportionment of the Tribunal, within a period of one week thereafter. The appellants shall pay additional court-fee for the enhanced amount, if any.

7. In the result, the Civil Miscellaneous Appeal is partly allowed and the award of the Tribunal to the tune of Rs.3,77,549/- is enhanced to Rs.11,30,000/- with interest @ 7.5% per annum. No costs.
Nv

Sd/-
Assistant Registrar

/True Copy/

Sub-Assistant Registrar

To

The MACT (Addl. District court),
Karaikal.

+1 C.C. To MR.K.Padmanabhan, Advocate in SR.NO.39336

+1 C.C. To Mr.R.Natarajan, Advocate in SR.NO.40089

C.M.A.No.794 of 2015

GP(CO)
sd : 28/10/2015