IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2015

CORAM

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

C.M.A.No.962 of 2015

1.Tmt.Vijaya Samundeeswari
2.N.Viswanathan
3.V.Kannan ... Appellants/Petitioners

vs.

1.E.Vijayanand

2.Shriram General Insurance Company Ltd.,
No.66, Thirumalai Pillai Street,
T. Nagar, Chennai - 600 017. ... Respondents / Respondents

Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act against the award of Motor Accident Claims Tribunal, III Judge, Small Causes Court, Chennai and made in MACTOP No.4594/2012 dated 27.11.2014.

For Appellants : Ms.Salim Fathima
M/s.S.Ravikumar
For Respondents : Mrs.Harini for
M/s.N.Vijayaraghavan
for R2.

JUDGMENT

The appeal has been preferred by the claimant against the award of Rs.20,20,064/- awarded by the tribunal as compensation for the death of one Gowri Shankar, aged 25 years, a B.Com, MBA degree holder, working as Team Leader in HP India Pvt. Ltd., Chennai who died in the accident occurred on 22.08.2012.

2. Heard Ms.Salim Fathima, learned counsel appearing for the appellants/claimants and Mrs.Harini, learned counsel appearing for the second respondent/insurance company.

3. The only question to be decided by this Court is with regard to the quantum of compensation awarded by the tribunal. The tribunal took the monthly income as per Ex.P13 - pay slip as Rs.15,886/- and added 50% towards future prospects and determined the monthly income at Rs.23,829/-. Including other amounts, awarded a

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sum of Rs.20,20,064/- as compensation to the appellants/claimants. However, it is seen from Ex.P13 - pay slip, the monthly salary of the deceased was Rs.18,586/- and after deduction Rs.15,886/- was shown and that amount was taken by the tribunal which is unwarranted. Therefore, the total income Rs.18,586/- as per Ex.P13 - pay slip is re-determined as the monthly income.

4. As held by the three Judges' Bench of the Honourable Apex Court in Reshma Kumari and others V. Madan Mohan and another (2013 ACJ 1253 (SC) and as per the judgment of the Honourable Apex Court rendered in Sarla Verma V. Delhi Transport Corporation (2009 (2) TNMAC (1) SC, 50% is required to be added towards future prospects. The monthly income is Rs.18,586/- and after adding 50% to it, the monthly income comes to Rs.27,879/-. Since the deceased was aged 25 years at the time of accident and being a bachelor, 50% is required to be deducted towards personal expenses. According to the age of the deceased, the proper multiplier is 18. As per the judgment of the Hon'ble Supreme Court in Munna Lal Jain and another Vs. Vipin Kumar Sharma and others in Civil Appeal No. 4497 of 2015 dated 15.05.2015, the age of the deceased alone has to be taken into consideration for applying the multiplier whereas in this case, the tribunal has committed an error by following the multiplier applicable to the age of the mother by adopting multiplier 13. Therefore the said application is set aside and by applying correct multiplier 18, the loss of income is calculated as follows -

Rs.18,586+50% = Rs.27,879 Less 50%=Rs.13,940 x 12 x 18 = Rs.30,10,932/-

5. The tribunal took into considerartion the loss of son to the first and second respondent parent and rightly awarded a sum of Rs.1,00,000/- towards loss of love & affection and hence the same is confirmed. However, Rs.20,000/- awarded towards funeral expenses is low and the same is enhanced to Rs.25,000/-. No amount was awarded towards transportation and therefore a sum of RS.15,000/- is awarded under this head. Rs.41,324/- awarded towards medical expenses is based on Ex.P10 - Medical bills and hence the same is confirmed. No amount was awarded towards loss of estate and therefore a sum of Rs.15,000/- is awarded under this head. Thus, the award of Rs.20,20,064/- is hereby enhanced to Rs.32,07,256/-, rounded off to Rs.32,00,000/-, break-up as follows -

(1)	Pecuniary loss	Rs.30,10,932/-
(2)	Loss of love & affection	Rs. 1,00,000/-
(3)	Funeral expesns	Rs. 25,000/-
(4)	Transportation	Rs. 15,000/-
(5)	Medical expenses	Rs. 41,324/-
(6)	Loss of estate	Rs. 15,000/-
	Total	Rs.32,07,256/-

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Rounded off to Rs.32,00,000/-.

The rate of interest awarded by the tribunal @ 7.5% per annum shall remain unaltered.

6. Even though the driver of the offending vehicle possessed a licence, he did possess the badge to drive the van and therefore, the tribunal rightly exonerated the insurance company however, directed the second respondent/insurance company to pay and recover the compensation from the owner of the vehicle. The said finding as well as the direction given by the tribunal is based on evidence and hence the same is confirmed.

7. In the result, the Civil Miscellaneous Appeal is allowed enhancing the compensation from Rs.20,20,064/- to Rs.32,00,000/- alongwith interest @ 7.5% per annum from the date of petition till the date of deposit. No costs.

8. The 2nd respondent/insurance company is directed to deposit the entire compensation awarded by this Court alongwith interest and costs, within a period of four weeks from the date of receipt of a copy of this order. On such, the respondents/claimants 1 and 2 are permitted to withdraw their share of the award amount allongwith interst and costs on the basis of ratio fixed by the tribunal. As rightly held by the tribunal, in so far as the claim of the third appellant/claimant is concerned, he is not dependent on the deceased and hence he is not entitled for any compensation. The second respondent/insurance company is permitted to recover the said amount of compenstaion from the owner of the vehicle insured with them.

9. The learned counsel for the appellants/claimants is directed to pay the requisite court fee for the enhanced compensation within a period of ten days from the date of receipt of a copy of this order.

सत्यमेव जयते

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rgr

To

1. The III Judge,
Motor Accident Claims Tribunal,
Small Causes Court,
Chennai.

2. The Section Officer VR Section High Court, Madras.

+1cc to Mr.S.s Ravikumar, Advocate, S.R.No.29870

+1cc to Mr.N. Vijayaraghavan, Advocate, S.R.No.30203

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EU(21/07/2015)

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