IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A. No. 3299 of 2014

1. Kalyani
2. Ezhilmaran
3. Minor Kalaivanan
(minor rep. by his mother 1st appellant as guardian)

4. M. Subramani

5. S. Anjalai ..Appellants/Petitioners (1to5)

Vs.

1. Balakrishnan

2. The Divisional Manager,
National Insurance Company Ltd.,
Door No.110, J.N. Street,
Puducherry - 605 001.

3. S. Mahadevi ..Respondents/(Respondents 1 and 2 and 6th petitioners)

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 26.02.2014 passed in M.C.O.P. No. 334 of 2012 by the Motor Accidents Claims Tribunal (Principal District Judge), Cuddalore.

For the Appellants :M/s. S. Pavithra Praba,

For the 2nd Reseponden : Mr.S. Arunkumar

J U D G M E N T

This Civi Miscellaneous Appeal has been preferred by the claimants as against the award of Rs.14,15,060/- passed by the Motor Accidents Claims Tribunal (Principal District Judge), Cuddalore, for the death of one Kuppuswamy, husband of the 1st appellant/father of appellants 2 and 3/son of appellants 4 and 5, aged about 48 years, a Village Postman, alleged to be earning a sum of Rs.7,397/-, in the accident which occurred on 22.09.2011.

2. Heard the parties and perused the records.

3. The only question, which is in issue is the quantum of compensation.

4. Though it was strenuously argued on behalf of the Insurance Company that the post of Village Postman is not a permanent one and that the deceased cannot have all the benefits of a Government Servant, the Tribunal, based on Ex-P18, appointment order and Ex-P19, Salary Certificate, rightly concluded that he is a salaried person and that was the reason why future prospects was also taken into consideration. Based on Ex-P19, the monthly salary of the deceased was fixed as Rs.7,397/-. Since the deceased was aged about 48 years, the Tribunal rightly added 30% towards "Future Prospects". Hence, the total monthly income of the deceased arrived at is (Rs.7,397 + 30% (Rs.7,397)) = Rs.9616/-. Since the family of the deceased consists of 6 members, one-fourth deduction has to be made, as rightly done by the Tribunal and "Loss of Dependency" would be,

Total Monthly Income	::	Rs.9,616/-
Less: One-fourth towards Personal expenses	::	Rs.9,616/- (-) ¼ (Rs.9,616/-)
	::	Rs.7,212/-

The appropriate multiplier to be adopted is 13. Applying the same, "Loss of Income" would be,

Loss of Income	::	Rs.7,212/- x 12 x 13
	::	Rs.11,25,072/-.

The sum of Rs.10,000/- awarded towards "Loss of Consortium" to the 1st appellant/widow is too low and the same is enhanced to Rs.1 lakh following the judgment in Rajesh and others V. Rajbir Singh and others reported in 2013 (3) CTC 883. The sister of the deceased, the 3rd respondent, was not given any amount towards "Loss of love and affection". Even though she may not be a legal heir, since she is unmarried, she is entitled to some compensation under the head "Loss of love and affection" and accordingly, a sum of Rs.10,000/- is awarded under the said head to the 6th respondent. The sum of Rs.20,000/- awarded towards "Transportation and Funeral Expenses" is enhanced to Rs.25,000/-. The Tribunal rightly awarded Rs. 10,000/- each to the children of the deceased and the parents of the deceased, totalling to Rs.40,000/-. As per Ex-P11 series, a sum of Rs.2,10,163/- was rightly awarded towards "Medical Expenses" and the same is confirmed. In all, a sum of Rs.15,10,235/- is awarded as compensation. The rate of interest awarded by the Tribunal @ 7.5% per annum remains unaltered.

5. The Insurance Company is directed to deposit the entire award amount, as per the modified award passed by this Court, with interest and costs, after deducting the amount, if any, already deposited, 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,

excepting the minor's share, appellants 1, 2, 4 and 5 are permitted to withdraw their respective shares, as per the apportionment of the Tribunal, within a period of one week thereafter. The 3rd respondent herein/unmarried sister of the deceased would be entitled only to a sum of Rs.10,000/-. The minor's share shall be deposited in interest bearing Fixed Deposit in any one of the Nationalised Banks till he attains majority. The 1st appellant/mother of the minor is permitted to withdraw interest accruing on such deposit once in three months. The additional court-fee, if any, shall be paid by the claimants for the enhanced compensation.

6. In the result, the Civil Miscellaneous Appeal is allowed enhancing the compensation awarded by the Tribunal from Rs.14,15,060/- to Rs.15,10,235/-. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

nv
To
The Motor Accident Claims Tribunal,
(Prl. Dist. Judge), Cuddalore.

C.M.A. No. 3299 of 2014

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