IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2015

CORAM

THE HON'BLE MR.JUSTICE N. KIRUBAKARAN

C.M.A.No.3540 of 2014

1.Chokkammal
Govindaraju (Died)
2.Ramasundaram
3.Ambika
4.Ramakrishnan
5.Mahalingam ...Appellants/Petitioner

/vs/

1. Bakthavatchalu,
2. New India Assurance Company Limited,
No.45, V Floor, Moore Street,
Chennai - 600 001. ...Respondents/Respondents

Prayer: Civil Miscellaneous Appeal preferred under Section 173 of Motor Vehicles Act, 1988, against the judgment and Decree dated 27.02.2012 and made in M.A.C.T.O.P.No.3639 of 2007 on the file of the Motor Accident Claims Tribunal, Chief Judge, Small Causes Court, Chennai.

For Appellants : Mr.V.Velu

For Respondents No.2 : Mr. J.Chandran

JUDGMENT

The Civil Miscellaneous Appeal has been preferred by the claimants not satisfied with the award of the Tribunal Rs.4,36,000/- for the death of one Malarvizhi aged about 30 years, who was a tailor, in the accident occurred on 05.08.2007.

2. Heard Mr.Velu, learned counsel appearing for the appellants and Mr.J.Chandran, learned counsel appearing for the second respondent.

3. The only question to be decided is with regard to the quantum as the insurance company has not filed any appeal with regard to the liability.

4. Mr.V.Velu, learned counsel for the appellants relied upon the judgment of the Hon'ble Supreme Court reported in Syed Sadiq, etc., Vs. Divisional Manager, United India Insurance Co., Ltd., reported in 2014 (1) TNMAC 459 (SC), wherein, the Honourable Supreme Court fixed a sum of Rs.6,500/- as monthly income for a vegetable vendor. Following the above judgment, he prays to determine the monthly income of the deceased at Rs.6,500/-.

5. No doubt, the Hon'ble Supreme Court in Syed Sadiq case determined Rs.6,500/- as monthly income of a Vegetable vendor who met with an accident in February 2008 and the said judgment cannot be applied in a straight jacket formula in this case. The deceased is a spinster and her mother is only a dependent, and therefore, the said judgment cannot be followed. The income at Rs.4,500/- per month determined by the tribunal for a tailor is very reasonable and the same is confirmed. If 50% is added for loss of future income, the loss of income would be Rs.4,500/- + 50% (Rs.4,500/-)= Rs.6,750/-. Accordingly, Rs.6,750/- is determined as monthly income of the deceased. Since, the deceased was a spinster, 50% is required to be deducted towards personal expenses (i.e) Rs. 6,750/- - 50% (Rs.6,750/-) = Rs.3,375/-. If the age of the deceased is taken, the appropriate multiplier would be 18. The loss of income is calculated as follows:

Rs.3,375/- x 12 x 18 = Rs.7,29,000/-.

6. Rs.12,000/- awarded by the Tribunal towards loss of love and affection is low and hence this Court enhances the same to Rs.20,000/- and Rs.10,000/- awarded by the Tribunal towards funeral expenses is confirmed. Rs.10,000/- awarded towards loss of expectation of love, is adjusted towards transportation charges. Totally, Rs.7,69,000/- is awarded along with 7.5% interest per annum enhancing from Rs.4,36,000/-.

7. The 2nd respondent is directed to deposit the entire award amount as per the modified award passed by this Court, along with interest and costs, as per the order of this Court, within a period of four weeks from the date of the receipt of a copy of this order. On such deposit, the claimants are permitted to withdraw their respective shares, with accrued interest, as per the ratio fixed by the Tribunal. Additional Court fee shall be paid by the claimants for the enhanced amount. It is also made clear that the claimants

shall not be entitled to interest for the delay period.

8. In the result, the civil miscellaneous appeal is partly allowed. No costs.

Sd/-
Deputy Registrar(J)

//True Copy//

Sub Assistant Registrar

sms

To

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

2. The Section Officer,
Small Causes Court,
Chennai.

1 CC to Mr.V.Velu, Advocate SR.No. 7793

1 CC to Mr. J.Chandran, Advocate SR.No. 8033

C.M.A.No.3540 of 2014

JSV (CO)
PSI (14.07.2015)