IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2015

CORAM

THE HONOURABLE MR.JUSTICE N. KIRUBAKARAN

C.M.A. No. 401 of 2014

1. A. Malliga
2. A. Arulmozhi
3. A. Anandbabu ...Appellants/Petitioners

Vs.

1. Vasudevan
(R1 remained ex parte before the Tribunal)

2. Reliance General Insurance Co. Ltd.,
Reliance House, 6th Floor,
Haddows Road, Chennai. ...Respondents

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 29.10.2011 passed in MACT O.P. No. 3477/2007 by the Motor Accidents Claims Tribunal (Chief Judge, SCC), Chennai.

For Appellants : Mr.F. Terry Chellaraja

For Respondents : Mr.S. Arunkumar for R2

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the claimants aggrieved over the quantum of Rs. 4,90,000/- awarded by the Motor Accidents Claims Tribunal (Chief Judge, Small Causes Court), Chennai, for the death of one Prakash, son of the 1st appellant and brother of appellants 2 and 3, aged about 26 years, working as a Driver, in the accident, which occurred on 25.07.2007.

2. Heard Mr.F. Terry Chellaraja, learned counsel for the appellants and Mr.S. Arunkumar, learned counsel for the 2nd respondent.

3. The only question that has to be decided is with regard to the quantum of compensation.

4. Though it is contended by the learned counsel for the appellants that only a sum of Rs. 6000/- was fixed as monthly income of the deceased and future prospects were also not taken into consideration, this Court agrees with the amount determined by the Tribunal since the legal heirs are mother, sister and brother of the deceased. The determination of monthly come and loss of income in case of death of head of a family, whose legal heirs are wife and minor children cannot be compared to the death of a person, whose legal heirs are mother and siblings. Hence, the sum of Rs.6000/- determined by the Tribunal is confirmed and the Tribunal rightly deducted 50% towards "Personal Expenses", the deceased being a bachelor. Though Mr.F. Terry Chellaraja seeks one-third deduction relying upon the judgment rendered by the Honourable Apex Court in Sarla Verma's case (2009 2 TN MAC 1 (SC)), this Court is not inclined to accept the same as the deceased died as a bachelor and except the mother of the deceased/the first appellant herein, appellants 2 and 3, who are siblings of the deceased cannot be considered as his dependants. Therefore, 50% deduction made towards "Personal Expenses" is confirmed.

5. However, as rightly contended by the learned counsel for the appellants, the multiplier should have been adopted according to the age of the deceased in the light of the judgment of the Honourable Apex Court in Amrit Bhanu Shali V. National Insurance Company Limited reported in 2012 11 SCC 738 whereas the Tribunal adopted multiplier as per the age of the mother. Hence, the multiplier adopted by the Tribunal is set aside and instead, taking multiplier 18, as per the age of the deceased, " Loss of Income" is calculated as follows:

Loss of income :: Rs.3000 x 12 x 18
:: Rs.6,48,000/-

The sum of Rs.12,000/- awarded towards " Loss of love and affection" is too low and the same is enhanced to Rs.1 lakh. Likewise, the amount awarded towards "Funeral Expenses" is too low and therefore, towards " Funeral Expenses", " Transport Charges" and other incidental expenses, altogether, a sum of Rs.25,000/- is awarded. The award of the Tribunal, to the tune of Rs.4,90,000/- is enhanced to Rs.7,73,000/- rounded off to Rs.7,70,000/- together with interest @ 7.5% per annum. The appellants shall pay additional court-fee for the enhanced amount, if any.

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, since the claim of appellants 2 and 3 has already been negatived by the Tribunal, the 1st appellant alone is entitled to the entire amount and she is permitted to withdraw the same within a period of one week thereafter.

7. In the result, the Civil Miscellaneous Appeal is partly allowed and the award of the Tribunal to the tune of Rs.4,90,000/- is enhanced to Rs.7,70,000/-. No costs.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

nv

To

The Chief Judge,
Small Causes Court,
Chennai.

1 CC to Mr.M.Malar, Advocate SR.No. 30718

1 CC to Mr.S.Arunkumar, Advocate SR.No. 30774

C.M.A. No. 401 of 2014

KU (CO)
PSI (24.07.2015)