CMA No.1974 of 2013

N. KIRUBAKARAN,J.

This matter has been brought before this Court today under the caption "For Being mentioned".

2. Though this Court allowed the appeal filed by the claimants by order dated 30.03.2015 by enhancing the compensation amount from Rs.3,27,000/- to Rs.10,22,000/-, rounded off to Rs.10,25,000/-, in paragraph 6 of the order, by mistake, it has been mentioned as ***Civil Miscellaneous Appeal is dismissed.***

3. In view of the above, paragraph 6 of the order of this court dated 30.03.2015 is directed to be modified by deleting the words ***Civil Miscellaneous Appeal is dismissed*** by substituting the same with ***Civil Miscellaneous Appeal is allowed.***

4. Registry is directed to issue fresh order copy after carrying out the above mentioned corrections. The other contents of the order of this court dated 30.03.2015 shall remain unaltered.

03.06.2015

rgr

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.03.2015

CORAM

THE HONOURABLE MR. JUSTICE **N. KIRUBAKARAN**

C.M.A. No. 1974 of 2013

1. Lakshmi
2. Nagarathinam
3. Geetha ..Appellants

Vs.

1. Suresh Babu

2. ICICI Lombard General
 Insurance Co. Ltd.,
 R.V. Towers, 3rd Floor,
 Tilak Road,
 Tirupathi – 517 501. ..Respondents

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 06.10.2012 passed in MACT O.P. No. 1932 of 2009 by the Motor Accidents Claims Tribunal (XV Additional Judge), Chennai.

For Appellants :: Mr.M.L. Ramesh

For Respondents :: Mrs.R. Sreevidhya for R2

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the claimants, aggrieved over the award of Rs. 3,27,000/- passed by the Motor Accidents Claims Tribunal for the death of the 1st appellant's son, by name, Sekar, aged about 17years, said to have been working as an agricultural coolie and lorry cleaner, in the accident, which occurred on 04.10.2006.

2. Heard Mr.M.L. Ramesh, learned counsel for the appellants and Mrs.R. Sreevidhya, learned counsel for the 2nd respondent Insurance Company.

3. Eventhough a sum of Rs.6000/- was claimed as monthly income, the Tribunal took Rs.4500/- as his monthly income and deducted 50% towards "Personal Expenses" and arrived at Rs.2250/- as " Monthly Contribution to the family". Adopting multiplier 11, awarded a sum of Rs. 2,97,000/- towards "Loss of Dependency" and totally, a sum of Rs. 3,47,000/- was awarded as compensation, including other amounts towards "Funeral Expenses" and "Loss of love and affection".

4. It is seen that the employer of the deceased was examined as P.W.3, who stated that he was paying a sum of Rs.6000/- to the deceased for his work. In the absence of any contra evidence and when the employer himself had deposed that the deceased was earning Rs.6000/- per month, the Tribunal ought to have taken Rs.6000/- as monthly income. That apart, the accident had occurred in 2008, during which time, it was impossible to get manual labour for less than Rs.6000/-. Therefore, the monthly income of the

deceased is re-determined as Rs.6000/- which is also in consonance with the judgment of the Honourable Apex Court rendered in ***Syed Sadiq etc. Vs. Divisional Manager, United India Insurance Company Limited*** reported in ***2014 (1) TN MAC 459(SC)***. Since the deceased was aged about 17 years, as per ***Santosh Devi's*** case reported in ***(2012) 6 SCC 421,*** 50% of the montly salary has to be added towards “Future Prospects”. Therefore, the total monthly income would be,

Total monthly income :: Rs.6000/- + 50% (Rs.6000/-)

:: Rs. 9000/-

Since the deceased was a bachelor, 50% is required to be deducted towards “Personal Expenses”. In that event, “the monthly contribution of the deceased to the family” would be,

Monthly contribution of the

deceased to the family :: Rs.9000/- (-) 50% (Rs.9000/-)

:: Rs.4500/-

As per the judgment in ***Sarla Verma and others Vs. Delhi Transport Corporation and another*** reported in ***2009 (2) TN MAC 1,*** the appropriate multiplier to be adopted, considering the age of the deceased, is 18 and therefore, applying the same,

Loss of Income	::	Rs.4500 x 12 x 18
	::	**Rs.9,72,000/-**

Towards " Loss of love and affection", the Tribunal awarded a sum of Rs.25,000/- and the same is confirmed. For "Funeral Expenses", only a sum of Rs.5000/- was awarded and the same is enhanced to Rs.15,000/-. Since no amount was awarded towards " Transportation Expenses", a sum of Rs.10,000/- is awarded. Hence, the compensation of Rs. 3,27,000/- is enhanced to 10,22,000/- rounded off to Rs.10,25,000/- together with interest @ 7.5 per annum.

5. It is submitted that the 2nd respondent Insurance Company has already deposited the entire amount as per the award of the Tribunal. In view of the modified award passed by this Court, the 2nd respondent is directed to deposit the balance amount, with interest and costs, 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 claimants are permitted to withdraw their respective shares, as per the ratio fixed by the Tribunal, within a period of one week thereafter. The claimants shall also pay additional court fee for the

enhanced amount, if any, within two weeks from the date of receipt of a copy of this order.

6. In the result, the Civil Miscellaneous Appeal is dismissed and the award of the Tribunal is enhanced to Rs.10,25,000/-. No costs.

30.03.2015

nv

To

The MACT (XV Additional Judge),

Chennai.

N. KIRUBAKARAN,J.

nv

C.M.A. No. 1974 of 2013

30.03.2015