IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2015

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

C.M.A. No. 2371 of 2012
&
M.P. Nos. 1/2012 & 1/2015

United India Insurance Company Ltd.,
A.R. Complex, 2nd Floor,
No. 1090, Poonamallee High Road,
Chennai – 84. ..Appellant

Vs.

1. S. Ranjitham
2. G. Sundaramoorthi
3. S. Sasikala
4. S. Subashini
5. S. Mahalakshmi (Minor)

5th respondent represented by mother and natural guardian S. Ranjitham

6. J. Sathishkumar ..Respondents

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 10.05.2011 passed in O.P. No. 373 of 2008 by the Motor Accidents Claims Tribunal (Additional District Judge/Fast Track Court No.2), Chennai.

For Appellant :: Mr.D. Bhaskaran

For Respondents:: Mr.G. Balaji Prasad for R1 to R5
R6 ex parte before Tribunal

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the Insurance Company as against the award of Rs. 9,30,000/- as compensation for the death of one Seshadri, aged about 20 years, II year Diploma Student in Electronics and Communication Engineering, in the accident, which occurred on 19.10.2007.

2. Heard Mr.D. Bhaskaran, learned counsel for the appellant and Mr.G. Balaji Prasad, learned counsel for respondents 1 to 5/claimants.

3. The only issue in question is with regard to the quantum of compensation.

4. According to the learned counsel for the appellant, in the absence of any positive evidence, the sum of Rs.10,000/- fixed by the Tribunal as the monthly income of the deceased is on the higher side, Therefore, according to the learned counsel, the monthly income fixed by the Tribunal requires to be reduced.

5. On the other hand, Mr.G. Balaji Prasad, learned counsel for the claimants would submit that the monthly income fixed by the Tribunal is very meagre and he relied upon the judgment of this Court rendered in United India Insurance Co. Ltd. V. Velumyil reported in 2013 (2) TN MAC 846 wherein this Court, for the death of a 19 year old, I year Engineering Student, fixed the monthly income at Rs.10,000/- and added 50% towards "Future Prospects" and thereby arrived at Rs. 15,000/- as total monthly income. Based on the above cited judgment, the learned counsel seeks enhancement.

6. Though the judgment relied on by the learned counsel for the claimants speaks about determination of Rs.15,000/- as monthly income for an Engineering Student, considering the fact that the deceased was doing Diploma in Engineering and that there is difference between a Diploma Student and a regular Engineering Student, the sum of Rs.10,000/- fixed by the Tribunal as the monthly income of the deceased is confirmed.

7. As the deceased was a bachelor, 50% has to be deducted towards "Personal Expenses", as rightly done by the Tribunal and the "Monthly Contribution of the deceased to his family" would be,

Monthly Income	::	Rs.10,000/-
Less: 50% towards "Personal Expenses"	::	Rs.10,000/-(-)50% (Rs.10,000/-)
Monthly Contribution of the deceased to his family	::	Rs.5000/-

Though the learned counsel for the claimants would rely on a judgment dated 15.05.2015 of three Judges' Bench of the Honourable Apex Court in Munna Lal Jain and another V. Vipin Kumar Sharma and others rendered in C.A. No. 4497 of 2015 to contend that the choice of multiplier should be according to the age of the deceased, taking into account, the overall award passed by the Tribunal, this Court is not inclined to adopt the multiplier as per the age of the deceased and the multiplier adopted by the Tribunal, namely, 15, as per the age of the mother of the deceased, is sustained. Hence, the sum of Rs.9 lakhs arrived at by the Tribunal towards "Loss of Income" (Rs.5000 x

12 x 15) is confirmed. The amounts awarded under other heads, namely, Rs.5000/- towards "Funeral Expenses" and Rs.25,000/- towards "Loss of love and affection" are reasonable and they are confirmed. Therefore, the compensation awarded by the Tribunal to the tune of Rs.9,30,000/- is reasonable and the same is confirmed. The rate of interest awarded by the Tribunal at 9% per annum remains unaltered.

8. The appellant Insurance Company is directed to deposit the entire award amount, with accrued 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, respondents 1 to 4 are permitted to withdraw their respective shares, as per the ratio fixed by the Tribunal. The share of the 5th respondent, who is a minor, shall be deposited in any one of the Nationalised Banks, in interest bearing Fixed Deposit, till she attains majority and the 1st respondent is permitted to withdraw interest accruing on such deposit once in three months.

9. In the result, the Civil Miscellaneous Appeal stands dismissed confirming the award passed by the Tribunal. No costs. Connected M.Ps are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

nv

To
The MACT (Addl. Dist. Judge - FTC II),
Chennai.

+1cc to Mr.D. Bhaskaran, Advocate, S.R.No.29368

MG(CO)
EU(14/07/2015)