BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.12.2015

CORAM

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

C.M.A.(MD)No.1292 of 2015
and
M.P.(MD).No.4 of 2015

The Divisional Manager,
The United India Insurance Company Ltd.,
Divisional Office,
Valliyoor,
Kanniyakumari District. ..Appellant/3rd Respondent

Vs.

1.Viji
2.Minor. Dhagun @ Dhayananth
3.Minor. Sabarish
4.Minor. Murugavel
5.Murugavel Pillai
6.Esakkiammal ..Respondents 1 to 6/Petitioners
7.Kannan
8.Sundaram
(R7 and R8 given up) ..Respondents 7 & 8/ Respondents 1 & 2

Prayer:- Appeal filed under Section 173 of Motor Vehicle Act, against the award dated 25.06.2012 and made in M.C.O.P.No.51 of 2011 on the file of the Motor Accident Claims Tribunal/Special Court, Nagercoil.

For Appellant : Mr.C.Jawahar Ravindran
For RR 1 to 6 : Mr.T.Selvakumaran

JUDGMENT

Challenging the award dated 25.06.2012 and made in the claim petition in M.C.O.P.No.51 of 2011, on the file of the Motor Accident Claims Tribunal (Special Tribunal Exclusively for Motor Accident Cases), Nagercoil, the appellant insurance company, who is the third respondent in the claim petition has filed this appeal.

2. Claiming a sum of Rs.15,00,000/- for the death of one Balakrishnan, who is the husband of the first claimant and father of the claimants 2 to 4 and son of the claimants 5 and 6, in a road traffic accident said to have been taken place on 21.05.2009 involving a tractor and trailer bearing registration Nos.TN-72-AZ-7464 and TN-72-R-6612 respectively, the respondents/claimants 1 to 6 had moved the claims tribunal with the claim petition in M.C.O.P.No. 51 of 2011. The first respondent in the claim petition is the driver of the tractor and the second respondent therein is the owner of the tractor and trailer. They remained *ex-parte.* The appellant insurance company being the third respondent alone had contested the claim petition. Based on the evidences available on record, the claims tribunal had proceeded to award a sum of Rs.8,98,000/- directing the appellant insurance company to pay this amount with interest at the rate of 7.5% per annum from the date of petition within a period of one month.

3. Having been aggrieved by this award dated 25.06.2012, the appellant insurance company, who is the third respondent in the claim petition has preferred this appeal.

4. Heard Mr.C.Jawahar Ravindran, learned counsel appearing for the appellant insurance company and Mr.T.Selvakumaran, learned counsel appearing for the respondents 1 to 6.

5. It is pertinent to note here that the above said appeal seems to have been filed on the ground of quantum alone. Mr.C.Jawahar Ravindran, learned counsel appearing for the appellant has also restricted his arguments on the sole ground of quantum.

6. Based on Ex.P.8, school Transfer Certificate of the deceased Balakrishnan, the tribunal had determined his age at 33 years, as his date of birth is 02.06.1975. The first respondent/first claimant had examined herself as PW-1. She has claimed that her husband, prior to his death, was doing business on flower and that he would earning a sum of Rs.10,000/- per mensem. However, the tribunal had determined the monthly income of the deceased at Rs.6,000/- and accordingly his annual income was determined at Rs.72,000/-. After giving 1/3rd deduction towards his personal expenses the 2/3rd reminder was calculated at Rs.48,000/-. Since, the deceased was aged about 33 years at the relevant point of time as per the Second Schedule to Section 163-A of the Motor Vehicles Act, 1988, the multiplier of 17 was selected. Accordingly, the loss of dependency of the family was calculated at Rs.8,16,000/- (48,000x17). Beside this the tribunal had also awarded certain amounts in favour of the claimants under the following heads.

Loss of dependency of the family	Rs. 8,16,000
Transport Expenses	Rs. 1,000
Loss of Estate	Rs. 1,000
Funeral Expenses	Rs. 10,000
Loss of Consortium to the first Claimant	Rs. 20,000
Loss of love and affection to the claimants 2 to 6	Rs. 50,000 (10000 x 5 each)
Total	Rs.8,98,000/-

7. Mr.C.Jawahar Ravindran, learned counsel appearing for the appellant/insurance company has argued that this amount of Rs.8,98,000/- was very excessive and disproportionate and therefore he has urged to revise the compensation.

8. This Court, on meticulous analysis finds that the tribunal has correctly granted a just compensation and accordingly awarded a sum of Rs.8,98,000/- in favour of the claimants, which according to this Court does not require any disturbance and this amount can be maintained without any modification.

9. The appellant/insurance company is directed to deposit the award amount along with the accrued interest and cost at the rate of 7.5% per annum within a period of four weeks from the date of receipt of a copy of

this order, if not deposited earlier. On such deposit being made, the claimants 1, 5 and 6 are entitled to withdraw their respective shares without making any formal application seeking permission.

10. The shares in respect of the minor claimants 2, 3 and 4 shall be invested in any one of the nationalised bank in an interest earning scheme until they attain majority. The first claimant being the guardian and mother of the minor claimants is entitled to withdraw the accrued interest from the minors' respective shares, once in three months for their welfare.

11. With the above observations this Civil Miscellaneous Appeal filed by the appellant is dismissed. Consequently, connected Miscellaneous Petition is closed. However, there is no order as to costs.

Sd/-
Assistant Registrar(RTI)

/True copy/

Sub Assistant Registrar(CS)

To

The Motor Accident Claims Tribunal/Special Court, Nagercoil.

Copy to : The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.c.Jawahar Ravindran, Advocate in SR.72304
+1cc to Mr.T.Selvakumaran, Advocate in SR.71867

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PBK/NGM-SS/SAR-I 04.02.2016 ::3P-5C: