IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATE: 11.07.2016
CORAM
THE HONOURABLE MR.JUSTICE T. MATHIVANAN
C.M.A.No.1323 of 2015

1.P.Saranya
2.Minor.Sandhiya
3.Minor.Harries
(Minors 2 & 3 rep.by their mother and Guardian P.Saranya, 1st Appellant)

.. Appellants/Petitioner 1 to 3

.Vs.

1.B.Ramya
2.Cholamandalama Ms.General Insurance Co.,Ltd.,
New No.6, Old No.24, Officers Lanes,
2nd Floor, Opp.to Voorches School,
Vellore 632 004.
3.Suburayan
4.Valliyammal
5.Anjali Devi
6.Velmurugan

.. Respondents /R1,R2 & Petitioner 4 to 7

This Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 against the Judgment and decree dated 14.07.2014 and made in M.C.O.P.No.211 of 2010 on the file of the Motor Accident Claims Tribunal (Additional Sub Court) Tindivanam.

For Appellants	:	Mr.R.Thirugnanam
For R2	:	Ms.Harini for M/s.N.Vijayaraghavan
For R3 to R6	:	Mr.S.Umapathy

O R D E R

Having not satisfied with the award of the Tribunal to the extent of Rs.11,78,800/- the claimants 1 to 3 have filed this appeal under Section 173 of the Motor Vehicles Act 1988 for the enhancement of compensation.

2. Appellants 1 to 3 are the wife and minor children of the deceased Pazhani. Whereas the respondents 3 to 6 are the parents and sister and brother of the deceased. They had moved the Motor Accident Claims Tribunal, (Additional Sub Court)

Tindivanam with a claim petition in MCOP.No.211 of 2010 claiming a sum of Rs.20,00,000/- towards the compensation for the death of the said Pazhani, in a road traffic accident said to have been taken place on 24.03.2010 involving a tempo van bearing Reg.No.TN.23.AH.0356 belonging to the first respondent. The deceased was aged about 31 years at the time of occurrence and was working as Technician in Axis India Company Ltd, Sriperumbudur. The Tribunal had determined the monthly income of the deceased at Rs.7,300/-. After giving 1/4 deduction, the remaining 3/4 of his monthly income was calculated at Rs.5400/-. Since he was aged about 31 years at the time of occurrence, the Tribunal had selected 16 as the appropriate multiplier and calculated the pecuniary loss of family at Rs.10,36,800/-.

3.Besides this, the Tribunal had also awarded compensation under the following heads:

i) Loss of love and affection (1 to 7 claimants each 10,000/)	:	Rs.70,000/-
ii) loss of consortium to the first claimant	:	Rs.40,000/-
iii) pecuniary loss of the family	:	Rs.10,36,800/
iv) Transport Expenses	:	Rs. 12,000/
v) Funeral Expenses	:	Rs. 20,000
		Rs.11,78,000/-

4. The second respondent/Insurance Company was directed to pay this amount to the claimants along with interest at the rate of 7.5% p.a. within a period of two months from the date of petition till the date of deposit.

5. Not being satisfied with the award, the claimants 1 to 3 being the wife and minor children of the deceased stand before this Court with this appeal.

6. Mr.R.Thirugnanam, learned counsel appearing for the appellants has contended that the Tribunal should have given 1/4 from the annual income of the deceased, instead of giving 50% as observed in Sarla Verma and Others Vs. Delhi Transport Corporation and Another (2009) SC 1298. Secondly, he submitted that the age of the first appellant/claimant was 22 years at the time of accident, since she has lost her husband in her tender age, a sum of Rs.1,00,000/- ought to have been

awarded as compensation towards loss of consortium, but the Tribunal had awarded only a sum of Rs.40,000/- under this head. He has also submitted that the Tribunal had awarded a sum of Rs.32,000/- towards transportation and funeral expenses and that the same could be maintained.

7. Considered the submission of Mr.R.Thirugnanam, learned counsel appearing for the appellants.

8. Keeping in view of the nature of the claim petition and on considering the precarious living of the appellants/claimants, this Court finds that the award of the Tribunal may be enhanced in the following manner.

Monthly income of the deceased as it is determined by the Tribunal	:	7,300/-
50% towards future prospects	:	3,650
	:	10,950

9. Since there are several dependants including the appellants 1/4 of deduction could be appropriate, after giving 1/4 deduction towards the personal and living expenses of deceased 3/4 remainder would be Rs.8210/-. Since the deceased was aged about 31 years, the Tribunal had selected the multiplier of 16. Accordingly, dependants of the family would be Rs.8210/- x12 = Rs.98,520/- applying the multiplier of 16, pecuniary loss of family would be Rs.15,76,320/-.

10. Since the first appellant being the widow of the deceased was aged about 22 years at the time of occurrence, this Court is of the view that a sum of Rs.1,00,000/- towards the loss of consortium can be granted. Accordingly, a sum of Rs.1,00,000/- towards consortium to the 1^{st} appellant is granted. Since the claimants 2 and 3 were minors, sum of Rs.1,00,000/- towards loss of love and affection is awarded and another amount of Rs.32,000/- towards transportation and funeral expenses which was awarded by the Tribunal is maintained.

11. Having regard to all the related facts and circumstances, this Court finds that a reasonable compensation may be awarded as detailed under:

(a) Towards pecuniary loss of the family	Rs. 15,76,320/-
(b) Loss of love and affection	Rs. 1,00,000/-
(c) Consortium to the first appellant	Rs. 1,00,000/-
(d) Funeral Expenses	Rs. 32,000/-
Total	Rs.18,08,320/-

12. Based on this calculation, the award of the Tribunal viz., 11,78,800/- has been enhanced to Rs.18,08,320/-.

13. The second respondent/Insurance company is directed to deposit the entire award amount along with interest and cost at the rate of 7.5% p.a. if not deposited earlier, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the claimants and the respondents 3 to 6 are entitled to the award amount as apportioned below. The first respondent/petitioner, being the wife of the deceased is entitled to withdraw her share along with proportionate accrued interest and costs. The first appellant and respondents 3 to 6 are entitled to withdraw their respective shares along with proportionate accrued interest and cost directly from the Tribunal without filing any formal application. The share of the minor appellants 2 and 3 have to be invested in anyone of the nationalised bank in an interest bearing deposit, till they attain majority. The first respondent being their mother and guardian is entitled to withdraw the accrued interest on their shares once in three months for the welfare of the minor appellants 2 and 3. They are also entitled to apportion the award amount in the following manner.

i) 1st appellant-wife	Rs.8,38,320/-
ii) appellants 2 and 3 (each Rs.3,00,000)	Rs.6,00,000/-
iii) 3rd respondent-Father	Rs.1,25,000
iv) 4th Respondent-Mother	Rs.1,70,000/-
v) 5th Respondent-Sister	Rs. 50,000
vi) 6th Respondent-Brother	Rs. 25,000
	Rs.18,08,320/-

In the result, this Civil Miscellaneous Appeal is partly allowed. There shall be no order as to costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

kkd

To
The Additional Sub Judge
The Motor Accident Claims Tribunal
Tiruvannamalai.

+1 cc to Mr.R.Thirugnanam Advocate sr 38396

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