

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 22.09.2016

CORAM:

THE HON'BLE MR. JUSTICE S. MANIKUMAR
AND
THE HON'BLE MR. JUSTICE N.AUTHINATHAN

C.M.A.No.2080 of 2016
C.M.P.No.15169 of 2016

M/s.Future General India Insurance Co. Ltd.,
Chennai. Appellant/2nd Respondent

Vs.

1. R.Santhi
2. N.Sudha
3. R.HariprakashR1 to R3/Petitioner
4. M.Chandran Respondent 4 / Respondent 1

The Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act against the judgment and decree, dated 17.03.2014 made in M.C.O.P.No.5664 of 2012, on the file of the Motor Accidents Claims Tribunal (II Court of Small Causes) Chennai.

For Appellant : Mr.N.Vijayaraghavan

JUDGMENT

(Judgment of this Court was delivered by S.MANIKUMAR, J.)

Quantum of Rs.17,50,000/- with interest, at the rate of 7.5% per annum, from the date of claim, till realisation, awarded to the legal representatives, is the challenge in this appeal, and in particular, determination of monthly income of the deceased as Rs.10,000/-, for the purpose of computing the loss of contribution to the family.

2. PW.1, wife of the deceased has claimed that the deceased, aged 40 years, was running a Tailor Shop, in the name and style of M/s.Style King Tailor and earned Rs.25,000/- per month. She has marked Ex.P7 - Identity Card issued by the Tamil Nadu Tailor Workers Welfare Board and Ex.P8 - Life Member Identity Card issued by Thaiyarkalai Thozhilalargal Munetra Sangam. Supporting her version, PW.1 has examined PW.3, R.Murugan, who was also running a Tailor Shop, in the name and style of M/s.Hi-Look Tailors. Ex.P10 is the Life Membership Card

of PW.3. However, upon perusal of the same, the Tribunal, having noticed that there is no proof for income of the deceased, fixed Rs.10,000/- as the monthly income of the deceased, for the purpose of computing the loss of contribution to the family. Merely because, there is no direct proof to show the monthly income of the deceased, this Court cannot reject the evidence of the claimants. Determination of Rs.10,000/- per month, in the year 2012, for computing the loss of income, cannot be said to be without any basis, and in our view, it is just and reasonable.

3. After adding 30% (Rs.10,000/- + Rs.3,000/- (30% of the monthly income = Rs.13,000/-) towards future prospects and deducting 1/3rd towards the personal and living expenses of the deceased, the Tribunal has applied 15 multiplier, to the age of the deceased, 42 years and computed Rs.15,60,000/- (Rs.13,000/- x 12 x 15 x 1/3) towards loss of dependency compensation. That apart, the Tribunal has awarded Rs.50,000/- for loss of consortium, Rs.50,000/- for loss of love and affection, Rs.25,000/- for loss of expectation and Rs.50,000/- towards loss of estate and Rs.15,000/- towards funeral expenses, which is less. A sum of Rs.50,000/- awarded under the head, loss of expectation, can be adjusted against the lesser compensation, under the head, loss of love and affection. Altogether, the Claims Tribunal has awarded Rs.17,50,000/- with interest at the rate of 7.5% per annum.

4. The quantum of compensation of Rs.17,50,000/-, awarded to the claimants, cannot be said to be a bonanza or windfall, warranting any reduction. In the light of our discussion, the Civil Miscellaneous Appeal is dismissed. The appellant-Insurance Company, is directed to deposit the award amount, with proportionate accrued interest and costs, less the statutory deposit, to the credit of M.C.O.P.No.5664 of 2012, on the file of the Motor Accidents Claims Tribunal (II Court of Small Causes) Chennai, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the respondents/claimants/claimants are permitted to withdraw the same, by making necessary applications, before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

1.The Motor Accident Claims Tribunal,
(II Court of Small Causes) Chennai.

2.The Section Officer,
V.R.Section, High Court, Madras.

+1 cc to M/s.M.M.Muthurajan,advocate,sr.53002.

ctk(co)
krd 12/11

C.M.A.No.2080 of 2016



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