IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE N.AUTHINATHAN

C.M.A.No.2166 of 2016
and
C.M.P.No.15592 of 2016

TATA AIG General Insurance Company Limited
Door No.1057, Jaya Enclave
Avinashi Road, Coimbatore .. Appellant/2nd Respondent

Vs.

1.S.Ramasamy

2.S.Vishnu Priya (Minor)
Reprented by Grandfather&
NF Ramasamy

3.A.Vinoth .. Respondents/Petitioners
and 1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree of the Motor Accident Claims Tribunal (I Additional District Judge), Tiruppur dated 24.3.2015 dated M.C.O.P.No.454 of 2012.

For Appellant :Mr.N.Vijayaraghavan

For Respondent 1and 2: Mr.K. Myilsamy

JUDGMENT
(made by S.MANIKUMAR, J.)

Challenge in this appeal is to the quantum of compensation of Rs.31,39,400/- with interest at the rate of 7.5% per annum from the date of claim till deposit, awarded to the legal representatives of the deceased. In the accident, which occurred on 20.6.2012, father of minor respondent No.2 died. Mother pre-deceased. Hence grandfather, aged about 75 years and minor daughter, filed MCOP No.454 of 2012 on the file of Motor Accident Claims Tribunal (First Additional District Judge), Tiruppur claiming compensation of Rs.40,00,000/-.

2. According to them, at the time of accident, the sole bread winner engaged as a designer and partner, in a unit by name Vishnu Priya Laser, and earned Rs.30,000/- per month. To prove employment, respondents/claimants have marked Ex.P9-certificate issued by the General Manager, District Professional Centre. Ex.P10 document has been marked to prove that he was a partner in Vishnupriya Laser. Ex.P11 is the Registration Certificate. Ex.P12 is cancellation of the firm Vishnupriya Laser. Ex.P13 is the Saral Forms. After perusing the above said documents, the Tribunal, by accepting the avocation, fixed the monthly income of the deceased as Rs.15,000/-. Following the decision in Sarla Varma's case, added 30% towards future prospects. After deducting 1/3rd towards the personal and living expenses, taken Rs.13,400/- for the purpose of computing loss of contribution to the family. Tribunal assessed the same as Rs.20,90,400/-. In addition to the above, Tribunal has awarded Rs.2,00,000/- under the head love and affection (Rs.1,00,000/- each to the respondents/claimants), Rs.25,000/- towards funeral expenses. Deceased was hospitalised between 21.6.2012 and 25.7.2012 and the claimants incurred medical expenses. To support the same Ex.P14 medical bills have been marked. Upon perusal of the same, the Tribunal has awarded Rs.8,24,000/- under the head medical expenses. Altogether, the Tribunal awarded Rs.31,39,400/- with an interest at the rate of 7.5% from the date of claim till realisation.

3. Though Mr.N.Vijayaraghavan, learned counsel for the appellant herein contended that the Tribunal erred in fixing the monthly income of the deceased at Rs.15,000/- per month for the purpose of computing the loss of contribution, this court is not inclined to accept the same and consequently, reduce the quantum of compensation for the reason that the monthly income determined by the Tribunal is not on the higher side. Adequate documents have been marked by the respondents/claimants to prove the avocation of the deceased as a designer and partner in Vishnu Priya Laser and Ex.P13-Saral Forms, have also been filed.

4. Mr.N.Vijayaraghavan, learned counsel for the appellant/insurance company suggested for a re-working of the compensation, for which there is no objection by the respondents/claimants. The re-working as suggested by the appellant/insurance company, is that Monthly income be fixed as Rs.15,000/-; future prospects of Rs.5,000/- to be added and accordingly loss of contribution be computed as Rs.20,95,400/-. Funeral expenses Rs.20,000/-, love and affection Rs.2,00,000/- and medical expenses Rs.8,24,000/-, be awarded. Even if reworking is done, there is no change at all. As compensation is sustained, the appeal is liable to be dismissed.

In the result, the appeal is dismissed, confirming the judgment and decree passed by the Motor Accident Claims Tribunal (First Additional District Judge), Tiruppur, dated 24.3.2015 made in MCOP No.454/2012. The appellant herein is directed to deposit the entire compensation amount of Rs.31,39,400/- awarded as compensation along with interest, at the rate of 7.5% per annum with cost to the credit of MCOP No.454/2012 on the file of the Motor Accident Claims Tribunal (First Additional District Judge), Tiruppur. The Tribunal is further directed to affix a copy of this judgment in the Notice Board of the Tribunal mentioning the name of the parties to MCOP No.454 of 2012, and the disposal of the appeal filed by Oriental Insurance Co. Ltd., Tiruppur. The Tribunal is further directed to disburse the compensation amount, only after due verification and identity of the claimants/respondents herein. We wish to state that, there should be strict compliance. The share of the minor shall be deposited in any one of the Nationalised Banks in fixed deposit under the reinvestment scheme initially for a period of three years. The interest accruing on the share of the minor shall be paid to the guardian once in three months, till the minor attains majority. Deposit should be made within six weeks from the date of receipt of a copy of this judgment. No costs. Consequently, the connected civil miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Asr

Copy to:

Motor Accident Claims Tribunal
(First Additional District Judge), Tiruppur.

+ 1 cc to Mr.K. Myilsamy, Advocate SR.54905

C.M.A. No.2166 of 2016

GJ(CO)
EU 16.11.16