

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 30.09.2016

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THE HONOURABLE MR.JUSTICE S.MANIKUMAR

and

THE HONOURABLE MR.JUSTICE N.AUTHINATHAN

C.M.A. No.2296 of 2016

and

C.M.P.No.16211 of 2016

The Branch Manager,
M/s.United India Insurance Company Ltd.,
No.50-A, Pallivasal Street,
Perambalur. .. Appellant/ 2nd respondent

Vs.

1. R.Rajammal
2. Minor Sivaramakrishnan
3. C.Jothi
4. T.Vijayalakshmi .. Respondents/ Petitioners

[Minor/2nd respondent, rep. by his natural guardian and next friend Grandmother, C.Jothi, the 3rd respondent.]

Prayer: Appeal under Section 173 of the Motor Vehicles Act, 1988 against the Decree and Judgment passed by the Motor Accidents Claims Tribunal (Principal District Judge), Perambalur in MCOP No.134 of 2013 dated 16.02.2015.

For Appellant : Mr.N.Vijayaraghavan

JUDGMENT

(Order of the Court was made by S.MANIKUMAR, J.)

Quantum of compensation of Rs.25,54,000/- with interest, at the rate of 7.5% per annum, from the date of claim till deposit is the only challenge on the grounds inter alia that the tribunal has erred in fixing the monthly income of the deceased as Rs.17,199/- for computing the loss of contribution to the family. Addition of 30% of the income under the head, future prospects is also questioned.

2. Material on record discloses that grandmother aged about 65 years, minor son aged about 5 years and sister of the deceased aged about 46 years joined together and filed MCOP No.134 of 2013 on the file of the MACT [Principal District Judge] Perambalur for compensation of Rs.40,00,000/-, under various heads.

3. In the accident, which occurred on 24.07.2012, breadwinner of the family aged about 43 years, a technician in Global Innovsource Solutions Private Limited and earned Rs.17,119/- died. To support avocation, respondents/claimants have adduced oral evidence through PW1. To corroborate the same respondents/claimants have marked Ex.P8, pay slip of the deceased, Ex.P9, Xerox Copy of the Provisional National Trade Certificate, Ex.P10, xerox copy of the National Apprenticeship certificate, Ex.P11, Offer letter of the company, Ex.P12, Xerox copy of employment Form, Ex.P13, Xerox copy of Joining report of the deceased and Ex.P18, xerox copy of PAN Card. Added further, PW3, Public Relation Officer of Global InnovSource Solutions Private Limited, Coimbatore branch, has been examined. He has also produced, Ex.P7, authorisation letter issued to him.

4. Upon perusal of Ex.P8, Pay Slip of the deceased, the tribunal has noticed that during the month of July 2012, the deceased had received a gross amount of Rs.17,119/- as the monthly salary. Tribunal by accepting the oral and documentary evidence fixed the salary as Rs.17,199/-. The deceased was aged 43 years, and was permanently employed in a company. Tribunal added 30% towards future prospects and for the purpose of computing the loss of contribution to the family, determined the income as Rs.22,359/-. As there were three dependants, the tribunal deducted 1/3 towards the personal and living expenses of the deceased, following Smt.Sarla Varma & Others Vs. Delhi Transport Corporation & Another, reported in 2009 (2) TN MAC 1 (SC). Thus, the tribunal computed the loss of contribution to the family as Rs.25,04,208/-. In addition to the above, the tribunal has awarded a sum of Rs.30,000/- under the head loss of love and affection, which is less. Rs.10,000/- awarded under the head funeral expenses is also less. Sum of Rs.10,000/- has been awarded under the head loss of estate. There is no award under the head conventional damages. Altogether, the tribunal awarded a sum of Rs.25,54,208/- and rounded of the same to Rs.25,54,000/- with interest, at the rate of 7.5% per annum and apportioned the same to the claimants/respondents.

5. Though, Mr.N.Vijayaraghavan, learned counsel for the appellant Insurance Company assailed the quantum of compensation on the grounds stated supra, going through the award, this Court is of the view that there is no material irregularity. Compensation awarded under the other heads, is less. Further, reading of the award also shows that the mother of the minor son/2nd respondent predeceased. Father also died in the accident. Therefore, grandmother and sister of the deceased have joined together, in filing the claim petition. Quantum of compensation does not require any reduction. The Civil Miscellaneous Appeal is dismissed. No costs.

6. Consequent to the dismissal of the appeal, the appellant-Insurance Company, is directed to deposit the entire award amount with proportionate accrued interests and costs, less the amount already deposited, to the credit of MCOP No.134 of 2013, on the file of the Motor Accidents Claims Tribunal, (Principal District Judge), Perambalur, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the 1st respondent/claimant is permitted to withdraw the award amount as apportioned by the tribunal, by making necessary application. The share of the minor/2nd respondent, 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 1st respondent/grandmother of the minor once in three months, till he attains majority. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

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To

The Motor Accidents Claims Tribunal,
Principal District Judge, Perambalur.

1 cc to Mr.M.B. Gopalan, Advocate sr. 57049

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