IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUDHAKAR
and
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.521 of 2016
& C.M.P.No.4410 of 2016

Reliance General Insurance Company Ltd.,
Rais Towers, Plot No.2054,
Second Avenue, Anna Nagar,
Chennai - 600 040.
.... Appellant/2nd Respondent

Vs.

1. Devaki
2. Minor Banu
3. Janakammal
.... Respondents/Petitioners
4. K.Samuel Sathiyanathan
.... Respondent/1st Respondent

APPEAL filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 18.03.2015 made in M.C.O.P.No.2663 of 2013 on the file of the Motor Accident Claims Tribunal, (II Court of Small Causes), Chennai.

For Appellant : Mr.S.Arunkumar

J U D G M E N T

(Judgment of the Court was delivered by R.SUDHAKAR,J.)

Reliance General Insurance Company Limited is on appeal challenging the award dated 18.03.2015 made in M.C.O.P.No.2663 of 2013 on the file of the Motor Accident Claims Tribunal, (II Court of Small Causes), Chennai.

2. It is a case of fatal accident. On 05.02.2013 at about 07.15. hours, while the deceased Sundhar @ Balasundhar was riding two wheeler bearing Registration No.TN 19 C 8573 from Thirukazhukundram to Chengalpattu Road, a vehicle Tata-207 bearing Registration No.TN 19 C 0554 came from opposite

direction in a rash and negligent manner and dashed against the deceased Sundhar @ Balasundhar, as a result, the deceased sustained multiple injuries all over the body. Immediately, he was admitted in G.G.H. Hospital and died on 07.02.2013. Hence, the claimants, who are wife, aged 30 years, minor daughter aged, 4 years and mother aged 60 years of the deceased, have claimed compensation of Rs.40,00,000/-. According to the claimants, the deceased Sundhar @ Balasundhar was working as senior mason and was earning a sum of Rs.1,000/- per day.

3. In support of the claim, the wife of the deceased was examined as P.W.1; Mr.Murthi, who is stated to be an eye witness to the accident was examined as P.W.2 and one Mr.Gopi, was examined as P.W.3 and Ex.P-1 to Ex.P-12 were marked, the details of which are as follows:-

Ex.No.	Details
P1	Copy of F.I.R. in Cr.No. 120/2013 registered at E2 Thirukazhukundram Police Station, Kancheepuram District
P2	Post mortem certificate
P3	Charge sheet
P4	FIR Alter report
P5	Legal heir certificate
P6	Driving licence of the deceased
P7	Voter ID of P.W.2
P8	Salary certificate
P9	CST certificate
P10	TIN certificate
P11	ID Card of P.W.3
P12	Pan Card of P.W.3

On behalf of the Insurance Company, no witnesses have been examined and no documents were marked.

4. The Tribunal based on the oral evidence of the witnesses, and the F.I.R. came to conclusion that the driver of the Tata-207 had driven the vehicle in a rash and negligent manner and was responsible for the accident and consequently liability was fixed on the appellant Insurance Company, since the vehicle was insured with the appellant, to compensate the claimant. With regard to the negligence issue, learned counsel for the appellant has no serious objection with regard to the finding of the Tribunal as no material has been placed to come

to a different conclusion from that of the conclusion arrived by the Tribunal.

5. As far as the quantum of compensation is concerned, based on the oral and documentary evidence, the Tribunal granted the following amounts as compensation with interest at 7.5% per annum:-

Sl. No.	Head	Amount granted by the Tribunal
1	Pecuniary Loss (8,000x12x16)	Rs.15,36,000/-
2	Loss of Consortium	Rs. 1,00,000/-
3	Funeral Expenses	Rs. 25,000/-
4	Loss of Love and Affection	Rs. 1,50,000/-
	Total	Rs.18,11,000/-

6. The objection raised by the learned counsel appearing for the appellant/Insurance company is that the loss of income arrived at by the Tribunal is on the higher side.

7. Insofar as the quantum of compensation is concerned, the Tribunal, considering the evidence of the employer of the deceased and the documents marked, fixed the monthly income at Rs.8,000/- only. As per the decision in the case of Rajesh and others V. Rajbir Singh and Others reported in 2013(2) TNMAC page 55 (SC), the Tribunal granted 50% towards future prospects. After deducting 1/3 towards personal expenses, the Tribunal fixed a sum of Rs.8,000/- towards monthly income.

8. We find that the accident had happened in the year 2013. Even though the claimants have claimed that the deceased Sundhar @ Balasundhar was earning a sum of Rs.1,000/- per day, the Tribunal has fixed the monthly income at Rs.12,000/- ie., Rs.400/- per day. Considering the age of the deceased and the date of the accident, we feel that the monthly income fixed by the Tribunal is justified and accordingly the same is confirmed. As per the decision in the case of Sarala Verma and others V. Delhi Transport Corporation and another reported in 2009(2) TNMAC 1 (SC), the Tribunal has adopted correct multiplier of 16 to arrive at a pecuniary loss. The Tribunal has granted a sum of Rs.1.00 lakh towards loss of consortium; Rs.1,00,000/- to the minor daughter towards loss of love and affection and Rs.50,000/- towards loss of love and affection to the mother of the deceased and Rs.25,000/- towards funeral expenses, which is very fair and reasonable.

9. Accordingly, the compensation awarded by the Tribunal stands confirmed. There is no serious objection in respect of the interest granted at 7.5% per annum.

10. Accordingly, the Civil Miscellaneous Appeal is dismissed as follows:-

(i) The award of the Tribunal granting compensation to the tune of Rs.18,11,000/- is confirmed.

(ii) The interest granted by the Tribunal at 7.5% per annum is confirmed.

(iii) Learned counsel appearing for the appellant seeks time to deposit the award amount.

(iv) The appellant is granted eight weeks time to deposit the entire award amount with interest and costs.

(v) On such deposit being made, the major claimants are permitted to withdraw their respective share as apportioned by the Tribunal.

(vi) The share in respect of the minor claimant shall be deposited in the name of the minor child in any one of the Nationalised Bank for a period of three years under reinvestment scheme, which shall be renewed periodically till the minor attains majority.

(vii) the mother of the minor claimant is permitted to withdraw the interest accrued on the minor's deposit once in three months directly from the bank.

(viii) There will be no order as to costs in this appeal.

(ix) Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

To

1.The Registrar,
The Motor Accidents Claims Tribunal
Small Causes Court, Chennai.

2.The Record Keeper,
VR Section,
High Court, Madras.

+1cc to Mr.S.Arunkumar, Advocate Sr.16434

C.M.A.No.521 of 2016
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ca(CO)
srg (15.04.2016)