IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED 12.01.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.1056 of 2014

1. Ruthrmmary
2. Prabhavathi .. Appellants/Petitioners

versus

1. C.L.Shaju

2. New India Assurance Company Limited,
D.435, D.B.Road, R.S.Puram,
Coimbaore.
(The 1st respondent already set exparte before the tribunal, hence notice may be dispensed with in this appeal)
... Respondents/Respondents

Appeal filed under Order Section 173 of the Motor Vehicles Act, 1988, against the Judgement and Decree passed in M.C.O.P.No.405 of 2008 dated 30.11.2010, on the file of the Motor Accidents Claim Tribunal/Fast Track Court: V Coimbatore at Tiruppur.

For appellant : Mr.Ma.P. Thangavel
For Respondents: Mr.N.Vijayaraghavan (R2)
Exparte (R1)

J U D G M E N T

The deceased, Nataraj, aged 50 years, working as a watchman, earning a sum of Rs.5,000/- per month died in an accident that occurred on 08.12.2007. His wife and unmarried daughter filed a claim petition, in M.C.O.P.No.405 of 2008, before the Motor Accidents Claims Tribunal, Subordinate Court, seeking compensation for a sum of Rs.10,00,000/-.

2. The Claims Tribunal, on consideration of oral and documentary has awarded a sum of Rs.2,74,400/-. The break-up details of the same are as under:

Loss of dependency	-	Rs.2,30,400/-
Loss of Love and affection (Rs.15,000/- to each claimants)	-	Rs. 30,000/-
loss of consortium to first claimant	-	Rs. 10,000/-

Funeral Expenses	- Rs.	4,000/-
Total		Rs.2,74,400/-

Challenging the quantum awarded as inadequate, the claimants have preferred this appeal for enhancement.

3. The learned counsel for the appellants submit that the amount of compensation awarded by the Claims Tribunal is very low and the same needs to be enhanced. It is his further submission that as per Exs.P5 and P6- Family Card and Voter identity card, the age of the deceased is 45 years and, hence, the proper multiplier would be 14. But, the tribunal has wrongly adopted the multiplier of 8 and the same needs to be corrected. It is his further submission that the Claims Tribunal ought to have considered the future prospects @ 30% as per the decision of the Hon'ble Supreme Court reported in 2012 ACJ 1458.

4. Per contra, learned counsel appearing for the 2nd respondent/insurance company submits that the Tribunal has considered the evidence in proper perspective and has awarded just and reasonable compensation and the same does not require any interference.

5. A perusal of the award reveals that there being no documentary evidence produced to substantiate the income of the deceased, the Tribunal, notionally fixed the monthly income of the deceased at Rs.3,600/- p.m. and after deducting 1/3rd towards personal expenses and adopting the multiplier of 8, has awarded a sum of Rs. 2,30,400/- (3600-1/3x12x8).

6. However, as rightly contended by the learned counsel appearing for the claimants, the fixation of monthly income is very much on the lower side. This Court is of the considered opinion that the monthly income, as claimed by the claimants at Rs.5,000/- seems to be a just and reasonable amount keeping in mind the date of the accident. Therefore, this Court fixes the monthly income of the deceased at Rs.5,000/- and adding 30% towards the future prospective increase in income of the deceased and deducting 1/3rd towards the personal expenses of the deceased, adopting multiplier of 13, quantifies the loss of income to the family at Rs.6,76,000/- (Rs.This Court, on considering the submissions made on either side and on perusing the materials on record deems it fit to fix the monthly income at Rs.5,000/-, adding 30% towards future prospects and after deducting 1/3rd and by applying the multiplier 13, is awarding a sum of Rs.6,76,104/- rounded off to Rs.6,76,000/=.

7. Insofar as the compensation awarded towards loss of consortium is concerned, the Tribunal has awarded a sum of Rs.10,000/-, which is very much on the lower side. Accordingly, this Court enhances the compensation under the said head to Rs.1,00,000/-. Similarly, the compensation awarded at Rs.30,000/- under the head love and affection and Rs.4,000/- under the funeral expenses are also on the lower side. The compensation under the head loss of love and affection is enhanced from Rs.30,000/- to Rs.1,00,000/- (Rs. 50,000/- to each claimants) and funeral expenses is enhanced from Rs.4,000/- to Rs.15,000/-.

8. In the result, this appeal is allowed in part, enhancing the compensation from Rs. 2,74,400/- to Rs.8,95,000/- with interest @ 7.5% per annum from the date of petition till the date of deposit. Out of the same, the first claimant is entitled to a sum of Rs.5,00,000/- and the second claimant is entitled to the balance compensation. No costs.

9. The 2nd respondent/Insurance Company is directed to deposit the award amount as awarded by this Court above along with interest at 7.5% p.a. From the date of petition till date of deposit and costs as quantified by the Tribunal, less the amount, if any, already deposited, to the credit of the claim petition, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to transfer the same directly to the bank account of the respective claimants as per the ratio of apportionment ordered above through RTGS within a period of two weeks thereafter. The court fees due if any shall be paid by the Claimants before obtaining copy of the Judgment.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

arr/GLN
To

1. The Motor Accident Claims Tribunal
   Fast Track Court V
   Coimbatore at Tiruppur.

2. The Section Officer, VR Section,
High Court, Madras.

+1 CC to Mr. Vijayaraghavan, Advocate sr 3366.
+1 CC to Mr.Ma.P. Thangavel , Advocate sr 3298.

MG(CO)
SP(05/04/2018)