IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2017

CORAM

THE HON'BLE MR. JUSTICE S.MANIKUMAR
and
THE HON'BLE MR. JUSTICE M.GOVINDARAJ

C.M.A.No.1442 of 2016
C.M.P.No.11126 of 2016
C.M.P.No.5756 of 2017

Royal Sundaram Alliance Insurance Co. Ltd.,
Chennai 600 020. ... Appellant/2nd Respondent

vs.

1. Shenbagam
2. Manoj (Minor)
3. Rahul (Minor)
(Minors are represented by their mother, 1st respondent herein)
4. Gopal
5. Lakshmi ... RR1 to 5/Petitioners
6. V.Duraisamy ... 6th Respondents /1st Respondent

Appeal against the fair and decretal order dated 23.03.2016, passed in M.C.O.P.No.5269 of 2013, on the file of the Motor Accidents Claims Tribunal (Chief Court of Small Causes), Chennai.

For Appellant .. Mr.S.Manohar

For Respondents 1 to 5 .. Mr.S.Ravikumar

For 6th Respondent .. Mr.D.Nandagopal

JUDGMENT

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

Quantum of compensation of Rs.19,58,000/-, with interest at the rate of 7.5% per annum, from the date of claim till deposit and costs, awarded in M.C.O.P.No.5269 of 2013, on the file of the Motor Accidents Claims Tribunal (Chief Court of Small Causes), Chennai, is challenged on the grounds, inter alia that a sum of Rs.8,000/-, taken as monthly income of the deceased, for the purpose of computing the loss of contribution to the family, is on the higher side. Except the above, no other challenge is made.

2. Record of proceedings shows that while granting stay of the impugned judgment, this Court, vide order, dated 26.07.2016, has directed the appellant-Insurance Company to deposit 50% of the award amount, with proportionate interests and costs, less the statutory deposit, to the credit of M.C.O.P.No.5269 of 2013, on the file of the Motor Accidents Claims Tribunal (Chief Court of Small Causes), Chennai.

3. Mr.S.Manohar, learned counsel appearing for the appellant-Insurance Company submitted that the conditional order has been complied with.

4. Seeking withdrawal of the said amount, respondents/claimants have filed C.M.P.No.5756 of 2017.

5. Compensation of Rs.19,58,000/- awarded to the legal representatives of the deceased, with interest at the rate of 7.5% per annum, from the date of claim, till deposit, is apportioned as hereunder:

Loss of dependency	: Rs.1 7,28,000/- (Rs. 12,000/- x 3/4 x 12 x 16)
Loss of consortium	: Rs. 1,00,000/-
Loss of love and affection	: Rs. 1,00,000/-
Funeral expenses	: Rs. 25,000/-
Transportation	: Rs. 5,000/-
Total	: Rs.19,58,000/-

6. Though Mr.S.Manohar, learned counsel appearing for the appellant-Insurance Company contended that the Tribunal has erred in fixing the monthly income of the the deceased as Rs.8,000/-, for the purpose of computing the loss of contribution to the family and that the same be reduced to Rs.6,500/-, as done by the Hon'ble Supreme Court in Syed Sadiq etc. Vs. Division Manager, United India Insurance Company Limited reported in 2014 (1) TN MAC 459, this Court is not inclined to accept the said contention for the reason that in the reported case, the accident occurred on 14.02.2008. Whereas, in the case on hand, the accident occurred on 08.05.2013.

7. Income determined in Syed Sadiq's case (cited supra), for the accident, which occurred on 14.02.2008, cannot be expected to be static, even after five years. Deceased, aged about 32 years, claimed to be a Supervisor in a Leather Company, is survived by his wife, two minor children and aged parents. Rs.8,000/- taken into consideration for the purpose of computing the loss of contribution to the family, cannot be said to be grossly excessive. Over a period of time, income varies and cannot be static. One should also consider the variance in cost of living, consumer price index, inflation and inevitable event of escalation in price, in essential commodities. Therefore, we do not find any gross illegality in determining the loss of contribution to the family of the deceased.

8. Compensation of Rs.1,00,000/- awarded to the minor children, under the head, loss of love and affection, is less. Compensation awarded for transportation is less. There is no award for conventional damages. Considering the overall quantum of compensation, we do not find that the compensation awarded by the Tribunal is a bonanza or excessive, warranting interference.

9. In the result, the Civil Miscellaneous Appeal is dismissed. It is represented that 50% of the award amount with proportionate accrued interest and costs, has already been deposited. The appellant-Insurance Company is directed to deposit the balance amount, with accrued interest, to the credit of M.C.O.P.No.5269 of 2013, on the file of the Motor Accidents Claims Tribunal (Chief 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 being made, the respondents, except the minors, are permitted to withdraw the same, by making necessary applications before the Tribunal. Share of the minors shall be deposited in any one of the Nationalised Banks in fixed deposit under the reinvestment scheme initially for a period of three years. Interest accruing on the share of the minors shall be paid to the guardian once in three months, till they attain majority. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

skm

To

The Motor Accidents Claims Tribunal
(Chief Court of Small Causes), Chennai.

+1cc to Mr.S.Manohar, Advocate Sr.19728
+1cc to Mr.S.Ravikumar, Advocate Sr.19648

C.M.A.No.1442 of 2016

ks[co]
srg 17/04/2017