IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.1857 of 2015
M.P.No.1 of 2015

M/s.Reliance General Insurance Co. Ltd.,
Chennai. ... Appellant/Respondent 2

versus

1. Padmavathy ...Respondent 1/Petitioner 1
2. M.Krishnan ...Respondent 2/Petitioner 2
3. D.Irudayaraj ...Respondent 3/Respondent 1

Civil Miscellaneous Appeal filed under Section 173 Motor Vehicles Act, 1988 against the award and decree, dated 23.07.2014 made in M.C.O.P.No.4519 of 2012, on the file of the Motor Accidents Claims Tribunal, (II Court of Small Causes), Chennai.

For Appellant : Mr.N.Vijayaraghavan

For Respondents 1 and 2 : Mr.N.Muthurajan

For Respondent 3 : No Appearance

J U D G M E N T

(Judgement of this Court was made by S.MANIKUMAR, J.)

Appeal is directed against the judgment and decree, dated 23.07.2014 made in M.C.O.P.No.4519 of 2012, on the file of the Motor Accidents Claims Tribunal, (II Court of Small Causes), Chennai, by which, the Tribunal, after fixing negligence on the driver of the Van, bearing Registration No.TN 10 U 7929, insured with the appellant-Insurance Company, awarded compensation of Rs.20,53,000/-, with interest, at the rate of 7.5% per annum, from the date of claim, till the date of realisation.

2. Before this Court, Mr.N.Vijayaraghavan, learned counsel for the appellant-Insurance Company has not challenged the finding, fixing negligence, on the driver of the abovesaid vehicle. Therefore, there is no need to advert to the same.

3. Perusal of the common award shows that the 1st respondent/claimant, mother of the deceased, examined as PW.1, has deposed that at the time of accident, her son was aged 30 years, was running a Company, in the name and style of "M/s.Pavithra Auto Mobiles and M/s.Lokesh Suppliers", for suppling Bricks, Sand and Blue Metal and earned Rs.25,000/- per month. On account of his sudden demise, the respondents/claimants have lost the contribution to the family, loss of love and affection, loss of consortium and loss of estate to the family. To prove the relationship, she has marked Ex.P10 - Legal Heirship Certificate and Ex.P19 - Family Card.

4. Before the Tribunal, PW.1, mother of the deceased, has further deposed that the deceased earned considerable income and regularly paid professional tax. To substantiate the same, she marked Ex.P11 - Professional Tax, Ex.P12 - Sand Supply Receipts and Ex.P13 - Cash Bill Book. Documents, such as, Exs.P14 to P17 - Bank Pass Books, issued by SBI, Indian Bank, IDBI Bank and Canara Bank respectively, have been marked to substantiate that the deceased had various bank accounts. After assessing the oral and documentary evidence, adduced by the respondents/claimants, the Tribunal determined the monthly income of the deceased as Rs.12,000/-.

5. As per Ex.P3 - Driving Licence, date of birth of the deceased has been mentioned as 22.08.1981. After considering the other documents, such as, Ex.P4 - Post-Mortem Certificate and Ex.P5 - Death Report, the Tribunal fixed the age of the deceased as 31 years. Following Sarla Verma v. Delhi Transport Corporation and Anr., reported in 2009 (2) TNMAC 1 (SC), the Tribunal fixed the multiplier, as "12". Addition of 50% of the income, towards future prospects, has been made, in terms of the decision made in Rajesh v. Rajbir Singh reported in 2013 (2) TNMAC 55 (SC). After deducting 50% towards the personal and living expenses of the deceased, the Tribunal computed the loss of contribution to the family as Rs.17,28,000/- (Rs.12,000/- x 50% addition x 12 x 16 x 50% deduction). Added further, the Tribunal has awarded Rs.1,50,000/- towards loss of love and affection, Rs.25,000/- for funeral expenses and Rs.1,50,000/- for medical expenses. Altogether, the Tribunal has awarded Rs.20,53,000/- with interest at the rate of 7.5% per annum, from the date of claim, till the date of realisation.

6. Though Mr.N.Vijayaraghavan, learned counsel appearing for the appellant-Insurance Company, assailed the quantum of

compensation, on the grounds that the Tribunal has erred in fixing a higher income for the purpose of computing the loss of contribution to the family and also questioned the quantum of compensation ordered, under other heads, considering the oral and documentary evidence, extracted supra, this Court is not inclined to accept his contentions and interfere with the quantum of compensation awarded by the Tribunal. There is no award towards transportation and damages to clothes and articles. On the whole, the quantum of compensation, awarded by the Tribunal, cannot be said to be excessive or bonanza, warranting interference.

7. In the result, the Civil Miscellaneous Appeal is dismissed. The appellant-Insurance Company is directed to deposit the entire award amount, with proportionate accrued interest and costs less the amount already deposited to the credit of M.C.O.P.No.4519 of 2012, on the file of the Motor Accidents Claims Tribunal, (II Court of Small Causes), Chennai, within a period of four weeks from the date of receipt of copy of this order. On such deposit being made, the respondents/claimants are permitted to withdraw the same, by making necessary application before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

skm
To

The II Judge,
The Motor Accidents Claims Tribunal,
Court of Small Causes,
Chennai.

+1cc to Mr.M.B.Gopalan, Advocate Sr.21965
+1cc to Mr.N.M.Muthurajan, Advocate Sr.21280

C.M.A.No.1857 of 2015

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