IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2017

CORAM

THE HONOURABLE MRS.JUSTICE S.VIMALA

C.M.A.No.1800 of 2017
and
C.M.P.No.9615 of 2017

The Oriental Insurance Co.Ltd.,
Rep.by its Branch Manager
First Floor, R.V.K. Buildings,
Dhali Road, Udumalpet. .. Appellant

/Vs/

1.K.Kaleeswari
2.S.Arumugam
3.A.Divya
4.V.Raghunathan .. Respondents

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 31.10.2013 made in M.C.O.P.No.169 of 2008 on the file of the Motor Accidents Claims Tribunal, Sub Court, Pollachi.

For Appellant : Mr.S.Arunkumar

JUDGMENT

This appeal is filed by the Insurance Company, challenging the quantum of compensation awarded to the parents and unmarried sister of the deceased.

2. The deceased Manikandan, aged 20 years, cleaner in a Lorry, earning a sum of Rs.200/- per day, met with an accident on 21.05.2007 and he died on the spot. In respect of the death of the deceased, the parents and the unmarried sister of the deceased filed a claim petition claiming a sum of Rs.20,00,000/- as compensation. The Tribunal has chosen to pass an award for a sum of Rs.8,66,000/-. Challenging the award as excessive and disproportionate to the income of the deceased, the Insurance Company has filed this appeal.

3. The main contention of the learned counsel for the appellant is that the tribunal has committed an error in fixing the monthly income at Rs.6,000/- per month and that, the deduction towards the "personal expenses" ought to have been made at 50% and not 1/3rd.

3.1. A perusal of the award passed by the Claims Tribunal would go to show that taking into account the provisions of the Payment of Minimum Wages Act, the monthly income has been taken at Rs.6,000/- per month (at the rate of Rs.200/- per day) and deducting 1/3rd towards the personal expenses, the monthly dependency was quantified at Rs.4,000/- and relying upon the postmortem certificate, the age was fixed as 20 and for the age group between 20 and 25, the appropriate multiplier adopted was 17. Thus the loss of dependency has been arrived at Rs.8,16,000/-.

4. The learned Counsel for the appellant would point out that the deceased is a bachelor and therefore, the percentage of the deduction should be at 50%, as the bachelor is expected to contribute his income only to his wife and children in future and not to the parents.

4.1 This contention is well founded. But the fact remains that when the deceased is aged 20 years, the tribunal should have determined the monthly dependency by taking into account, the future prospective increase in income to the extent of 50% and that has not been done. If this omission is taken into account and 50% deduction, toward the personal expenses is made, then the amount of compensation to be awarded towards loss of dependency would be the same, more or less.

4.2 Under such circumstances, there is no acceptable grounds to reduce the quantum of compensation and the appeal is dismissed confirming the award passed by the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

5. The appellant/Insurance Company is directed to deposit the entire award amount, along with accrued interest, after deducting the amount already deposited, if any, before the Tribunal, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the amount directly to the bank accounts of the Respondents 1 to 3/ Claimants through RTGS within a period of two weeks thereafter, less the amount already withdrawn, if any, by the claimants.

04.07.2017

Index : Yes/No

Internet : Yes/No

kv/sms

To

1. The Motor Accidents Claims Tribunal,
   Sub Court, Pollachi.

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

S.VIMALA,J.

kv/sms

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