IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2017

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THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.M.A.No.2628 of 2016

1. V.Ramalingam
2. R.Radhamani
3. R.Sathya ... Appellants

Vs.

1. T.Ramesh

2. M/s.The Oriental Insurance Company Limited,
   No.W-115, 1st Floor, S.B.Complex,
   3rd Avenue, Above VIP Showroom,
   Near Roundana, Anna Nagar,
   Chennai-40 ... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act for enhancement of the compensation awarded in the judgment and decree dated 01.04.2013 made in MCOP.No.325 of 2010 on the file of the Motor Accidents Claims Tribunal/Principal District Judge at Namakkal.

For Appellants : Mr.MA.P.Thangavel

For 2nd Respondent : Mr.D.Bhaskaran

JUDGMENT

The parents and the sister of the deceased Ranjith, who was 24 years old at the time of accident, are the claimants, who have preferred an appeal for enhancement of the award of compensation granted in M.C.O.P.No.325 of 2010 on the file of the Principal District Judge, Motor Accidents Claims Tribunal, Namakkal. There is no challenge to the negligence which is held against the 1st respondent vehicle. The only challenge is with respect to the quantum of the award passed by the tribunal.

2. The deceased was stated to be undergoing B.Tech. Final year in an Engineering College at Chennai and his age was 24 years at the time of accident. The age is also confirmed by the School and College Certificates produced by the claimants. At

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the time of accident on 09.12.2009, as he was undergoing B.Tech. Course as stated above, the Tribunal, while taking his monthly income as Rs.12,000/- and after deducting 1/3rd for his personal expenses, a sum of Rs.8,000/- is fixed as notional income of the deceased. The age of the claimants, namely, parents and sister of the deceased are 52, 43 and 24 years respectively. Further, since the deceased is a bachelor, based on the legal heir certificate produced, the age of the mother has been taken into consideration for calculating the income loss to the family at 43 years and accordingly, the multiplier of 15 was adopted and a sum of Rs.14,40,000/- (Rs.8,000 x 12 x 15) has been arrived at. In addition to the same, a sum of Rs.50,000/- under the head of loss of Love and Affection, Rs.5,000/- for Funeral Expenses and Rs.10,000/- for Loss of Estate have been granted which comes to Rs.15,05,000/-. Since the claim was only for Rs.15,00,000/-, the award amount was restricted to the same. The said award is under challenge now.

3. The claimants have also filed M.P.No.1 of 2015 in CMA.SR.No.29814 of 2015 to amend the claim made by the appellants in this Motor Accidents Claims Award to Rs.25,00,000/- instead of Rs.15,00,000/- and the same stands allowed on condition that in case, any enhancement is made in the appeal, the requisite court fee shall be paid by the appellants.

4. The only contention of the learned Counsel for the appellants is that since the deceased is a bachelor, who is hardly 25 years old and undergoing B.Tech. Engineering Course, definitely, he would have lived for another 25 years and during that period, his salary will be doubled, hence 100% of monthly income should be taken as future prospects. Likewise, the compensation given under the heads of loss of love and affection, funeral expenses and loss of estate have also to be enhanced. The learned Counsel would also submit that no amount has been awarded under the head of Transportation to Hospital. Therefore, according to the learned Counsel for the appellants, the award of the Tribunal has to be set aside by enhancing the compensation amount payable to the claimants.

5. Per contra, the learned Counsel appearing for the 2nd respondent Insurance Company states that the Tribunal has awarded a just and reasonable compensation which does not warrant any interference at the hands of this Court.

6. The accident had occurred in the year 2009 and at the time of accident, the deceased was 24 years old. Therefore, while calculating the notional income, at Rs.12,000/- as fixed by the Tribunal, the future prospects also to be added by taking into account 50% of the monthly income i.e. Rs.6,000/- which

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comes to Rs.18,000/- and by deducting 50% to his personal expenses, it comes to Rs.9,000/-. By adopting the multiplier 18 based on the decision in Sarala Verma Vs. Delhi Transport Corporation reported in (2009) 2 TN1 MAC Page No.11, the loss of income to the family comes to Rs.19,44,000/- (Rs.9,000 x 12 x 18). Considering the age of the claimants, the amount awarded under the head of loss of love and affection enhanced to Rs.1,50,000/- i.e. Rs.50,000/- towards each claimant and likewise, the funeral expenses is enhanced to Rs.25,000/- and the loss of estate is enhanced to Rs.10,000/-.

7. Thus, a sum of Rs.21,29,000/- is awarded to the appellants by enhancing the compensation of Rs.15,00,000/- awarded by the Tribunal, along with an interest at 7.5% p.a. from the date of petition till the date of receipt. The 2nd respondent Insurance Company is directed to deposit the total award amount, if not deposited already, within a period of four weeks from the date of receipt of a copy of this judgment and on such deposit, the claimants are entitled to withdraw the same. Further, for the enhancement of the award amount, requisite court fee has to be paid by the claimants.

8. With the above observation, the Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

The Principal District Judge,
Motor Accidents Claims Tribunal,
Namakkal.

+1cc to Mr.D.Bhaskaran, Advocate, S.R.No.17650
+1cc to Mr.MA.P.Thangavel, Advocate, S.R.No.17563

C.M.A.No.2628 of 2016

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