IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.08.2017

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

C.M.A.No.1911 of 2017

1. S.Kanaga
2. Bhuvaneswari (Minor)
3. Balaji (Minor)
   Minor petitioners are represented
   by their mother and next friend the
   first petitioner herein.
4. Krishnaveni Ammal ... Appellants/Petitioners

Versus

1. S. Suresh
2. United India Insurance Company Ltd.,
   Tarapore Towers, 7th Floor,
   826, Anna Salai, Chennai - 02. ... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, against the decree and Judgment, dated 25.06.2010 passed in M.C.O.P. No.2453 of 2007 on the file of Motor Accident Claims Tribunal cum Chief Judge, Small Causes Court, Chennai.

For Appellants : Mr. S.Ravikumar

For Respondents: R1 - Ex-parte before Tribunal

M/s.R.Rathna Thara for R2

JUDGMENT

The deceased, Shankar, aged 37 years, earning a sum of Rs.4,000/- by doing coolie works, met with an accident on 4.5.2007. The wife, two minor children and the mother of the deceased have filed the claim petition for compensation claiming for a sum of Rs.10,00,000/-.

2. The Tribunal on a consideration of materials, both oral and documentary, awarded compensation in a sum of Rs. 5,65,000/-, the break up of which are as under :-

Loss of dependency Rs.4000 - 1/4th x 12 x 15	:	Rs.5,40,000/-
Loss of consortium	:	Rs. 10,000/-
Loss of love and affection to P2 to P4	:	Rs. 10,000/-
Transport to hospital and funeral expenses	:	Rs. 5,000/-
Total	:	Rs.5,65,000/-

Challenging the compensation granted as inadequate, the claimants have filed the present appeal.

3. The learned counsel for the appellants submit that the future prospective increase in income of the deceased has not been considered by the Tribunal, and, therefore, this Court, considering the said prospective increase in income of the deceased, should enhance the compensation amount.

4. The learned counsel for the respondent opposed the increase in quantum on the ground that when the deceased had been working in an unorganised sector and not in a permanent job, the future prospective increase in income is not permissible.

5. Though it is true, as contended by the learned counsel for the respondent that future prospective increase in income was not taken into consideration by the Supreme Court in the decision in 2009 (2) TNMAC (SC), Sarla Verma and others - Vs - Delhi Transport Corporation and another, however, in the later decision in Santhosh Devi - Vs - National Insurance Co. Ltd. and others, in Manu SC /0322/2012, the Supreme Court, taking into consideration the persons working in unorganized sector and the increase in income that would be earned by them in the said sector, was also considered and the Supreme Court went on to hold that even the persons, who are employed in unorganized sectors were also entitled for consideration of future prospective increase in their income for the purpose of computation of loss of dependency.

6. There is no dispute with regard to the fixation of salary, deduction towards personal expenses and the adoption of multiplier. In such circumstances, this Court awards future prospective increase in income at 40%. Accordingly, the income is quantified at Rs.5,600/=. Deducting 1/4th towards the personal expenses of the deceased, the loss to the family is assessed at Rs.4,200/ and adopting the multiplier of 15, the compensation payable to the claimants is quantified at Rs.7,56,000/=.

7. Further, the compensation awarded under the head loss of consortium and loss of love and affection to claimants 2 to 4 is on the lower side. Accordingly, this Court enhances the compensation under the head loss of consortium to Rs.25,000 and Rs.1,00,000/- to each claimant under the head loss of love and affection. In all, a sum of Rs.3,00,000/= is awarded under the head loss of love and affection to claimants 2 to 4. Accordingly, the compensation awarded is enhanced and restructured, as under :

Loss of dependency (Rs.4200 x 12 x 15)	:	Rs.7,56,000/-
Loss of consortium	:	Rs. 25,000/-
Loss of love and affection to P2 to P4 (Rs.1,00,000 x 3)	:	Rs. 3,00,000/-
Transport to hospital and funeral expenses	:	Rs. 5,000/-
Total	:	Rs.10,86,000/-

8. In all, the compensation is enhanced from Rs.5,65,000 to Rs.10,86,000/= which is payable with interest at 7.5% per annum from the date of petition till the date of deposit. It is made clear that the claimants/appellants are not entitled to any interest for the default period as ordered in CMP No.10499 of 2016.

9. In the result, for the reasons aforesaid, the appeal is allowed to the extent indicated above. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

10. The Insurance company is directed to deposit the enhanced compensation amount, along with interest at 7.5.% p.a. from the date of claim petition till the date of deposit, 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 the Judgment. On such deposit being made, the Tribunal shall transfer the share of the major claimants to their respective Bank Accounts, through RTGS within a period of two weeks thereafter. Insofar as the share of the minor claimants is concerned, the same shall be deposited in fixed deposit in any one of the Nationalized Banks, till they attain majority and the interest accrued thereon shall be withdrawn by the guardian of the minor claimants once in three months,

directly from the Bank. The claimants shall pay the necessary court fee for the enhanced compensation amount before receiving the copy of this judgment.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

vsi2/GLN
To

1. Motor Accident Claims Tribunal cum Chief Judge,
   Small Causes Court, Chennai.

2. The Section Officer,
   V.R. Section,
   High Court, Madras - 104.

+1 CC to Mr.S. Ravikumar, advocate sr 58031.
+1 CC to Mr.R. Rathna Thara, Advocate sr 57861.

C.M.A.No.1911 of 2017

NRI(CO)
SP(03/04/2018)