IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2017

CORAM:

THE HON'BLE Dr. JUSTICE S.VIMALA

Civil Miscellaneous Appeal No.1917 of 2017

1. G.Gowri
2. N.Devi ... Appellants/Petitioners

..vs..

1. Jayasudha
2. United India Insurance Co. Ltd.,
   Chandra Plaza, 1st Floor,
   No.48 Arcot Road, Saligramam,
   Chennai - 93 ... Respondents/Respondents

Appeal filed under Section 173 of Motor Vehicles Act 1988, against the decree and Judgment, dated 31.01.2011, made in M.C.O.P.No.2324 of 2007 on the file of the Motor Accident Claims Tribunal cum Chief Judge, Small Causes Court, Chennai.

For Appellants : Mr. S.Ravikumar
For Respondents: Mr. Srinivasa Ramalingam, for R-2

J U D G M E N T

The deceased Sathish, aged 23, a salesman, in a Textile company, earning a sum of Rs.4,500/- per month, died in an accident on 03.04.2007.

2. The first claimant is the mother and the second claimant is the paternal aunt of the deceased.

3. The Claims Tribunal has given a finding that the second claimant is neither a legal heir nor a dependent and therefore, she is not entitled to compensation. Thus, the claim petition has been dismissed as against the second claimant.

4. The Tribunal has awarded a compensation of Rs.3,95,000/- in favour of the first claimant alone. The breakup details of the award are important, in order to understand the scope of this Appeal, which reads thus:-

Loss of dependency	-	Rs.3,78,000.00
Loss of love and affection	-	Rs. 10,000.00
Funeral and Transport expenses	-	Rs. 7,000.00
		Rs.3,95,000.00

5. The age of the deceased has been taken as 23, based upon the date of birth, as 28.02.1984, as entered in Ex.P-6-Transfer Certificate. As he was working as Salesman in Textile Mills, monthly income has been taken as Rs.4,500/- and as he was a bachelor 50% of the income has been deducted towards his personal and living expenses. Taking into account the age of the mother as 45, the multiplier of 14 has been adopted to calculate the loss of dependency. This is under challenge by the claimant in this Appeal.

6. According to the learned counsel appearing for the first appellant / first claimant, the age of the deceased should have been taken as the criteria to arrive at the loss of dependency and not the age of the mother.

7. The main grievance of the learned counsel appearing for the first appellant / first claimant is that neither the multiplicand nor the multiplier is proper, in this case, and as the deceased was aged only 23 at the time of accident, the future prospective increase in income should have been considered and appropriate multiplier would be 18 only.

7.1. It is also pointed out that the amount awarded towards loss of love and affection is meager and it should be awarded at least at Rs.50,000/-.

7.2. The said contention is well founded. As per the decision reported in the case of Amirt Bhanu Shali v. National Insurance Co. Ltd., (2012) 2 TNMAC 321 (SC), where the selection of multiplier is held to be based on the age of the deceased and not on the basis of the age of the dependents. Therefore, the amount, as awarded by the Claims Tribunal, requires modification and it is modified to the extent indicated below.

7.3. Applying the multiplier of '18' and fixing the monthly dependency at Rs.2,925/- (Rs.2,925/- x 12 x 18), the loss of dependency would be Rs.6,31,800/-.

7.4. The compensation awarded under the head, loss of love and affection is enhanced to Rs.50,000/- and the amount awarded under the head, Funeral and Transport is enhanced to Rs.10,000/-.

8. In the result, the Civil Miscellaneous Appeal is partly-allowed, by enhancing the quantum of compensation from Rs.3,95,000/- to Rs.6,91,800/-, which is payable at 7.5% interest, from the date of petition till the date of deposit. As

stated supra, in paragraph 3 of this judgment, this CMA is dismissed as against the second claimant / second appellant.

9. It is submitted by the learned counsel appearing for the second respondent / Insurance Company that the compensation amount, as awarded by the Claims Tribunal, has been deposited by the Insurance Company. Therefore, the balance amount shall be deposited by the second respondent / Insurance Company, along with interest at 7.5% per annum, from the date of petition till the date of deposit, within a period of four weeks from the date of receipt of a copy of this judgment. The claimants are not entitled to any interest for the default period. On such deposit being made, the Tribunal shall transfer the amount to the Savings Bank Account of the first claimant / first appellant herein through RTGS. The first claimant / first appellant shall pay the necessary court fee before receiving the copy of the judgment. No costs.

-s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

srk

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

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

+1 CC to Mr.S. Ravikumar, Advocate sr 50581.
+1 CC to Mr. Srinivasan Ramalingam, Advocate sr 50735.

C.M.A.No.1917 of 2017

GMR(CO)
SP(27/02/2018)