IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2017

CORAM:

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

C.M.A.No.854 of 2015

1. Mrs.Nirmala
2. S.Abirami
3. S.Prasanth (minor)
4. Mrs.Indirani ... Appellants/Petitioner

[3rd minor appellant rep. by his mother and next friend Nirmala]

vs.

1. M.Premdas
2. The United India Insurance Co. Ltd., No.48, Arcot Road, Saligramam, Branch at N.M.Road, Avadi, Chennai-54.

Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Order and Decreetal Order in MCOP No.955 of 2013 dated 02.12.2014 on the file of Motor Accidents Claims Tribunal (III Additional District Court), Poonamallee.

For Appellants : Mr.K.Varadha Kamaraj

For Respondents : Mr.S.Arun Kumar (for R2)

J U D G M E N T

[Order of the Court was made by S.MANIKUMAR, J.]

Not satisfied with the quantum of compensation of Rs.34,07,316/- with interest at the rate of 7.5% per annum, from the date claim till deposit and costs, the legal representatives of the deceased, T.Shanmugham, who was a Technician in All India Radio and earned Rs.50,000/- per month, have filed the instant appeal for enhancement of compensation, and restricted the same to Rs.25,00,000/-.

2. Perusal of the award shows that though the claimants/legal representatives claimed that the deceased as a Technician in All India Radio, earned Rs. 50,000/-, based on the evidence of PW3, Administrative Officer of All India Radio and Exs.P10 to P14, in particular, Ex.P13, Pay slip for the month of August 2013, the tribunal fixed the monthly income of the deceased as Rs.18,861/-. Further, stating that since the net salary of the deceased i.e. R.18,861/- alone is taken as the monthly income, after deductions from gross salary of Rs.38,124/-, the tribunal has not deducted any amount towards the personal and living expenses of the deceased. No amount has been added under the head future prospects, as one of the legal heirs would get compassionate appointment and also family pension. Applying '13' multiplier, the tribunal has awarded Rs.29,42,316/- towards loss of contribution to the family.

3. In addition to the above, a sum of Rs.1,00,000/- towards mental agony to the claimant, Rs.1,00,000/- towards loss of consortium to wife, Rs.1,00,000/- each for loss of love affection to son and daughter, Rs.50,000/- for loss of love and affection to the mother and Rs.15,000/- for funeral expenses, have been awarded. In all, the tribunal has awarded a sum of Rs.34,07,316/-, with interest at the rate of 7.5% per annum from the date of claim till deposit and costs.

4. On the appeal filed for enhancement of compensation, we have requested the learned counsel for both parties to consider the various heads where compensation could be enhanced, on the principle of just compensation.

5. Going through the same, learned counsel for the parties on consensus agreed that compensation awarded by tribunal should be enhanced to Rs.52,06,292/-, as hereunder. Their submission is placed on record.

Monthly Gross Income		: Rs.38,124/-
Less: Deductions		
Conveyance	: Rs.2,880/-	
Professional Tax	: Rs.1,010/-	
	: Rs.3,990/-	
Actual Salary		: Rs.34,234/-
Add: 30% towards future prospects		: Rs.10,270/-
Total income		: Rs.44,504/-
Annual Income (Rs.44,504/- x 12 = 5,34,048/-) rounded off		: Rs.5,34,050/-
Less: Income Tax Deduction [ceiling limit: Rs.2,00,000/- hence, IT for Rs.3,34,050/-]		: Rs. 33,405/-
Total		: Rs.5,00,645/-

After deducting 1/4th towards personal and living expenses	:	Rs.3,75,484.05
Applying '13' multiplier, loss of contribution to family is	:	Rs.48,81,292.65
Rounded off	:	Rs.48,81,292/-
Loss of consortium	:	Rs. 1,00,000/-
Loss of love and affection to children	:	Rs. 1,50,000/-
to mother	:	Rs. 50,000/-
Transportation and funeral expenses	:	Rs. 25,000/-
Total	:	Rs.52,06,292/-
Compensation awarded by the Tribunal	:	Rs.34,07,316/-
In the light of consensus, amount is enhanced by	:	Rs.17,98,976/-

6. In the light of consensus arrived at, legal representatives / appellants are entitled to an enhanced compensation of Rs.52,06,292/- as against Rs.34,07,316/-, awarded by the tribunal, with interest, at the rate of 7.5% per annum, from the date claim till deposit.

7. In view of the above, we direct United India Insurance Company Limited, Chennai, the 2nd respondent herein, to deposit Rs.52,06,292/-, with interest, at the rate of 7.5% per annum, from the date of claim till deposit and costs, awarded by the tribunal, less the statutory deposit, to the credit of MCOP No.955 of 2013 on the file of Motor Accidents Claims Tribunal (III Additional District Court), Poonamallee, within a period of four weeks from the date of receipt of a copy of this order.

8. On such deposit, except the minor appellant No.3, the appellants/claimants are permitted to withdraw their share, as apportioned by the tribunal, with proportionate accrued interest and costs, by making necessary applications. The share of the minor/appellant No.3 shall be deposited in any one of the Nationalised Banks in fixed deposit under the reinvestment scheme initially for a period of three years. The interest accruing on the share of the minor/appellant No.3, shall be paid to the mother of the minor, the 1st appellant herein viz., Mrs.Nirmala, once in three months, till he attains majority.

9. The Civil Miscellaneous Appeal is allowed as indicated above. No costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Motor Accident Claims Tribunal,
(III Additional District Court), Poonamallee.

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

C.M.A.No.854 of 2015

AD(CO)
VR(03/04/2017)