IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2017

CORAM:

THE HONOURABLE DR.JUSTICE S.VIMALA

C.M.A. No.2562 of 2017
AND CMP.13960 OF 2017

National Insurance Co. Ltd.,
Salem. ... Appellant/2nd Respondent

Versus

1. Poosammal
2. Balamurugan
3. Ramu
4. Eswari .. Respondent 1 to 4/Petitioner
5. C.Ganesan
6. Amutha
7. United India Insurance Co. Ltd.,
Kumbakonam ... Respondents 5 to 7/ Respondent 1,3 & 4

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 to set aside the Judgment and Decree dated 11th day of September 2008, made in M.C.O.P. No.555 of 2005 on the file of the Motor Accident Claims Tribunal, Additional District Cum Sessions Court, (Fast Track Court), at Ariyalur.

For Appellant : Mr. K.Padmanabhan

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JUDGMENT

The deceased, Manickam, aged 50 years, a fruit merchant, earning a sum of Rs.6,000/- p.m., died in an accident that took place on 21.01.2004. The claimants, viz., wife and children of the deceased filed claim petition claiming a sum of Rs.5,00,000/- as compensation.

2. The Tribunal, on consideration of oral and documentary evidence, awarded a sum of Rs.3,57,000/- as compensation, the break-up details of which is as under :-

Loss of Income /dependency		
Rs.2000 x 12 = 24000 x 13	-	Rs.3,12,000/-
Funeral Expenses	-	Rs. 5,000/-
Loss of consortium	-	Rs. 10,000/-
Love & Affection (Rs.10,000/- X 3)	-	Rs. 30,000/-
Total		Rs.3,57,000/-

Challenging the award as excessive, the Insurance Company has filed this appeal.

3. The learned counsel for the appellant submits that in the absence of any income proof relating to the monthly income of the deceased, the fixation of Rs.3,000/- as monthly income by the Tribunal is excessive and the multiplier adopted by the Tribunal is also not correct.

4. In order to appreciate the contention, it is necessary to find out the details of the award passed by the Tribunal.

5. In the absence of any proof relating to income, the Tribunal fixed the income of the deceased at Rs.100/- per day and after deducting 1/3rd towards the personal expenses of the deceased, arrived at the loss of income to the family at Rs.2,000/- per month and adopting multiplier of 13, has quantified the compensation at Rs.3,12,000/= (Rs.2000 x 12 x 13). Though it is contended by the learned counsel for the appellant that the monthly income fixed at Rs.3,000/- is on the higher side, it is to be remembered that three members were dependent on the deceased , viz., the wife and two children and, therefore, the deceased would definitely have put in his best efforts to earn to maintain the family. In such circumstances, fixation of Rs.3,000/- as monthly income cannot be said to be excessive or disproportionate. Further, the adoption of multiplier also cannot be found fault with, though it is contended by the learned counsel for the appellant that wrong multiplier has been adopted. Accordingly, this Court is of the considered view that the compensation awarded at Rs.3,12,000/- towards loss of income to the family is just and reasonable and the same is confirmed.

6. Insofar as the compensation awarded under the non-pecuniary heads are concerned, the Tribunal has awarded a sum of Rs.5,000/- towards cremation expenses; Rs.10,000/- towards loss of consortium Rs.10,000/- and Rs.10,000/- each to the claimants towards loss of love and affection. In the considered view of this Court, the compensation awarded under the above heads are very much on the lower side and it is meagre. However, at this

distant point of time, this Court is not inclined to interfere with the said quantification.

7. For the reasons aforesaid, this Court is of the considered view that the award cannot be said to be excessive or disproportionate. In the circumstances, there being no merits, the Civil Miscellaneous Appeal is liable to be dismissed and, accordingly, the same is dismissed. Consequently, connected Miscellaneous Petition is also closed.

8. The appellant / Insurance Company is directed to deposit the entire award amount along with interest @ 7.5% per annum from the date of petition till the date of deposit together with costs, as ordered by the Tribunal, 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 this judgment. On such deposit being made, the Tribunal is directed to transfer the award amount as per apportionment directly to the bank account of the claimants through RTGS within a period of two weeks thereafter.

Sd/-
Assistant Registrar(CS-iv)

//True Copy//

Sub Assistant Registrar

vsi2/GLN

To

1. The Additional District Cum Sessions Judge,
(Fast Track Court)
Ariyalur.

C.M.A. No.2562 of 2017

ssd(CO)
TR(09/04/2018)