IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2017

CORAM:

THE HON'BLE Dr. JUSTICE S.VIMALA

C.M.A.No.2948 of 2017

1. Kanagarathinam

2. Selvanayagam ... Appellants/Claimants

..vs..

1. S.Venkatakrishnan

2. United India Insurance Co. Ltd.,
Third Party Hub, Siligi Building,
No.134 Greams Road,
Chennai 600 006 ... Respondents/Respondents

Appeal filed under Section 173 of Motor Vehicles Act 1988, against the judgment and decree, dated 05.06.2017 made in M.C.O.P.No.6498 of 2014 on the file of the Court of the Chief Judge, MCOP Tribunal, Chennai.

For Appellants : Mr. Amar D.Pandiya

For Respondents: Mr. J.Chandran, for R-2,
R-1 exparte before the Tribunal.

J U D G M E N T

The fixing of monthly income at Rs.3,000/- for a woman, aged 62, is under challenge, in this Appeal, on the ground that the monthly income should have been taken atleast at Rs.6,500/-, relying upon the case of Syed Sadiq v. Deputy Manager, United India Insurance Co. Ltd., reported in (2014) 1 TNMAC 459, and that is the only issue to be decided in this Appeal.

2. The sons of the deceased Saraswathi has filed the claim petition for compensation, in respect of the death of their mother, on 14.11.2012. As against the claim made for a sum of Rs.10 lakhs, the Tribunal has passed an award for a sum of Rs.2,18,000/-. While fixing the pecuniary loss, the monthly income of the deceased has been taken at Rs.3,000/- and deducting 1/3rd towards the personal expenses and adopting the multiplier of 7, the loss of income has been quantified at Rs.1,68,000/-.

3. The learned counsel appearing for the appellants / claimants contended that the household services rendered by the deceased have not been taken into account and it cannot be less than that of a coolie, who is earning a sum of Rs.6,500/- per month and therefore, the Tribunal is not justified in fixing the monthly income at Rs.3,000/-.

4. It is settled position of law that the household services rendered by the woman at home always should be taken into account and if that household services are also taken into account, the monthly income should have been fixed at Rs.6,500/- per month. If the monthly income is taken at Rs.6,500/- and deducting 1/3rd towards the personal expenses and adopting the multiplier of 7, the pecuniary loss would be Rs.3,64,056/-.

5. Similarly, the compensation awarded under other heads by the Tribunal also needs proportionate increase. The loss of love and affection awarded at Rs.20,000/- is enhanced to Rs.40,000/-. The transportation expenses awarded at Rs.5,000/- is enhanced to Rs.15,000/-. The funeral expenses awarded at Rs.25,000/- is reasonable and hence, the same is confirmed as such.

6. In the result, the total amount of compensation is enhanced from Rs.2,18,000/- to Rs.4,44,050/- and this amount of compensation shall be deposited less the amount already deposited 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 the interest for the default period. The share of the compensation amount shall be apportioned between the appellants / claimants, as per the ratio of proportion made by the Claims Tribunal. On such deposit being made by the second respondent / Insurance Company, (since all the appellants / claimants are majors), the Tribunal shall transfer the compensation award amount to the Savings Bank Account of the appellants / claimants. The excess court fee shall be deposited by the claimants / appellants before receiving the copy of this judgment.

7. In the result, the Civil Miscellaneous Appeal is allowed. No costs.

-s/d-
Assistant Registrar(CS-IV)

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Sub-Assistant Registrar

srk

To
1. Chief Judge, MCOP Tribunal, Chennai

+1 CC to Mr.S. Ravikumar, Advocate sr 82965.
+1 CC to Mr.J. Chandran, advocate sr 83202.

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SSD(CO)
SP(20/02/2018)