IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2017

CORAM

THE HONOURABLE DR.JUSTICE S.VIMALA

C.M.A. NO. 3106 OF 2017

1. J.Roja
2. M.Jeyapal .. Appellants/Petitioners

- Vs -

1. N.S.K. Builders
No.2/5, NGO Colony
Padapai.

2. TATA General Insurance Co. Ltd.
No.1, Raheja Towers
177, Anna Salai
Chennai 600 002. .. Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 07.04.2016, passed by the Motor Accident Claims Tribunal (2nd Addl. District Judge), Tiruvallur @ Poonamallee, made in MCOP No.971/2014.

For Appellants : Ms. M.Malar

For Respondent : Mr. M.B.Raghavan for R-2

JUDGMENT

The claimants are the appellants, who are the parents of the deceased, viz., mother and father, aged 44 and 47 years respectively. The claimants filed the claim petition claiming compensation in respect of the death of their son Rajaiyaa.

2. The deceased, aged 21 years, working in a private company at Ambattur and earning a sum of Rs.12,000/-, met with a fatal accident on 12.1.14. The parents of the deceased claimed a sum of Rs.25,00,000/- as compensation. The Tribunal, considering the oral and documentary evidence placed before it, awarded a sum of Rs.11,77,000/- as compensation along with interest at 7.5% p.a., from the date of claim petition till date of deposit. Being aggrieved by the inadequate award, the claimants are before this Court by filing the present appeal.

3. The main contention raised by the learned counsel appearing for the appellants is that while adopting the multiplier, the Tribunal erroneously took into account the age

of the parents, for deciding the multiplier to be adopted, while in fact, the age of the deceased ought to have been taken for deciding the multiplier. Learned counsel submitted that according to the settled principles of law, it is only the age of the deceased, which must be the criteria to fix the multiplier. It is further contended by the learned counsel for the appellant that future prospects have not been taken into account, especially when the age of the deceased is only 21 years, as the deceased has got brighter prospects in landing in some other employment and earning higher income.

4. Heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondent and perused the materials available on record as also the findings rendered by the Tribunal.

5. The contention raised by the learned counsel for the appellant is well founded. Consistently the Courts have held that for fixing the multiplier to be adopted, the age of the deceased is the main criteria and not the age of the claimants.

6. Insofar as the contention raised with regard to future prospects, the said submission also deserves to be sustained. Future prospects is a value addition in any claim made by the claimants as it is normal that a person rises to greater heights in his future career and, thereby earns more.

7. Learned counsel appearing for the insurance company/2nd respondent submitted that the deduction at 1/3rd towards the personal expenses of the deceased is wrong and that where the claimants are the parents and the deceased being a bachelor, deduction towards personal expenses should be made at 50% and, therefore, submitted that this Court may deduct 50% towards the personal expenses of the deceased.

8. The Tribunal, while fixing the monthly income of the deceased at Rs.8,750/-, deducted 1/3rd towards the personal expenses to arrive at the contribution to the family. However, as contended by the learned counsel for the 2nd respondent, this Court is of the considered view that the deduction towards personal expenses should have been done at 50% and not 1/3rd as done by the Tribunal. Accordingly, this Court, while awards future prospects at 40%, quantifies the loss of income to the family at Rs.13,23,000/- (8750 X 40%/2 X 12 X 18 = 13,23,000).

9. Insofar as the compensation awarded under the other heads are concerned, this Court modifies the compensation as under :-

Funeral Expenses	:	Rs.15,000/-
Love & Affection	:	Rs.50,000/-
Transportation	:	Rs. 5,000/-
Damages	:	Rs. 500/-
Loss of Estate	:	Rs.15,000/-

10. In all, this Court enhances the total amount of compensation awarded by the Tribunal from Rs.11,77,000/- to Rs.14,08,500/- as detailed above.

11. In the result, this civil miscellaneous appeal is allowed in part enhancing the compensation to a sum of Rs.14,08,500/= from Rs.11,77,000/= along with interest at 7.5 % per annum from the date of claim petition till date of deposit. However, in the circumstances of the case, there shall be no order as to costs.

12. It is submitted that the award passed by the Tribunal has already been deposited. In such circumstances, the 2nd respondent is directed to deposit the balance portion of the compensation as enhanced by this Court along with interest at 7.5% p.a. on the enhanced amount, 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 amount directly to the bank account of the claimants through RTGS within a period of two weeks thereafter as per percentage of apportionment ordered by the Tribunal.

Sd/-
Assistant Registrar(CS-iv)

//True Copy//

Sub Assistant Registrar

GLN
To
1. The 2nd Addl. District Judge,
Motor Accident Claims Tribunal-II
Tiruvallur @ Poonamallee.

2. The Section Officer,
V.R. Section, High Court, Madras. (2 copies)

+1cc to Mr.N.VIJAYARAGAVAN, Advocate, S.R.No. 82715
+1cc to Mr.M.MALAR, Advocate, S.R.No.82719

C.M.A. NO. 3106 OF 2017

BR(CO)
TR(05/02/2018)