IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:05.01.2017

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THE HONOURABLE Dr.JUSTICE S.VIMALA

C.M.A.No.3207 of 2014
and M.P.No.1 of 2014

M/s.Royal Sundaram Alliance
Insurance Co. Ltd.,
No.8-H1, Mangalam Building,
4th Road, Salem – 636 009. ...Appellant/2nd Respondent

/Vs/

1. Lakshmi
2. Solaiyammal .. 1 & 2 Respondents/Petitioners
3. Jayavelu .. 3rd Respondents/1st Respondent

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 24.01.2014 made in M.C.O.P.No.98 of 2011 on the file of the Motor Accident Claims Tribunal, Subordinate Court, Rasipuram.

For Appellant : M/s.N.Vijayaraghavan

For Respondents 1 and 2 : Mr.Ma.Pa.Thangavel

R3 : No Appearance

JUDGMENT

The deceased, Dharmalingam, aged 33 years, a permanent worker in the Siddeshwara Spinning Mill at Mallur, earning a sum of Rs.7,500/- per month, met with an accident that took place on 01.04.2011 and succumbed to the injuries sustained in the accident. Therefore, the legal representatives of the deceased, viz., the wife, mother and father of the deceased filed a claim petition claiming compensation in a sum of Rs.10,00,000/= as compensation. During the pendency of the claim petition, the father of the deceased died.

2. The Tribunal, on a consideration of oral and documentary evidence, awarded compensation in a sum of Rs.12,08,560/- under the following heads :-

Loss of dependency	-	Rs.11,38,560/-
Loss of consortium	-	Rs. 50,000/-
Loss of love and affection	-	Rs. 10,000/-
Funeral expenses	-	Rs. 5,000/-
Transport expenses	-	Rs. 5,000/-
Total	-	Rs.12,08,560/-

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

3. Learned counsel appearing for the appellant submitted that the Tribunal has erred in considering the income of the deceased at Rs.71,160/- per annum after applying future prospectus when there is no evidence of such prospects established by acceptable evidence. The learned counsel further submitted that the multiplier adopted by the Tribunal is also excessive. Hence, the award has to be reduced.

4. The learned counsel appearing for the respondents submitted that the award passed by the Tribunal is justifiable and no interference is called for.

5. A perusal of the award passed by the Tribunal reveals that it is claimed by the claimants that the deceased was working as a permanent worker in the Spinning Mills at Mallur and earning a sum of Rs.7,500/- p.m. To substantiate the same, the claimants examined the Officer of H.R. Department of the Mill as P.W.3, who deposed that the deceased was working in their Mill and he was paid a sum of Rs.5928/- as wages and Ex.X2-Salary Certificate was marked through him. There being no contra evidence let in by the second respondent to disprove the income of the deceased, the Tribunal fixed the income of the deceased at Rs.5928/- (rounded off Rs.5930/-). Relying upon the decision of the Apex Court reported in 2013 (3) CTC 883, wherein, it was held that if the deceased was below 40 years of age, addition of 50% towards future prospects ought to be added to the actual income of the deceased while computing the income, the Tribunal has fixed annual income of the deceased including his future prospectus at Rs.1,06,740/- (Rs.71,160/- + Rs.35,580/-). As per the ratio laid down in the decision of the Apex Court in Sarla Verma's case reported in 2009 (2) TNMAC 1 (SC), the Tribunal, considering the number of dependency, deducted 1/3rd amount towards personal expenses on the annual income of the deceased and adopted the multiplier of 16. After deducting the personal expenses of the deceased and adopting the multiplier of 16, the Tribunal has quantified the compensation towards loss of dependency at Rs.11,38,560/- (Rs.1,06,740/- x 16 - 1/3). The Tribunal has also awarded a sum of Rs.50,000/- towards loss of consortium, Rs.10,000/- towards loss of love and

affection to the mother of the deceased and Rs.5,000/- each towards funeral expenses and transportation.

6. This Court has carefully considered the reasoning given by the Tribunal for quantifying the loss of dependency and finds that the Tribunal has followed the law laid down by the Apex Court and has arrived at the correct compensation. Therefore, this Court is not inclined to interfere with the said compensation awarded. Insofar as the other heads are concerned, compensation under certain heads are on the lower side. However, this Court is not inclined to interfere with the same at this point of time. Accordingly, this Court confirms the award passed by the Tribunal.

7. For the reasons aforesaid, there being no merits in the appeal, it is liable to be dismissed. Accordingly, the appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

8. The appellant/Insurance Company is directed to deposit the entire award amount along with interest at 7.5% per annum from the date of petition till the date of deposit, 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. The claimants are entitled to compensation as per the ratio of apportionment made by the Tribunal. On such deposit being made, the Tribunal is directed to transfer the respective share amounts of the claimants directly to their bank account through RTGS within a period of two weeks thereafter.

Sd/-
Assistant Registrar(Audit)

//True Copy//

Sub Assistant Registrar

ogy/GLN
To
1. The Motor Accident Claims Tribunal,
Subordinate Court, Rasipuram.

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

+1cc to Mr.Ma.Pa.Thangavel, Advocate, S.R.No.1539

C.M.A.No.3207 of 2014

PA(CO)
CS/12/04/18