



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 06.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
AND
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

C.M.A.No.3443 of 2014

1. S.Visalakshi

2. B.Sivarama Krishnan .. Appellants/Petitioner
Vs.

1. K.Bhagyaraj

2. Bajaj Allianz General Insurance Co., Ltd.,
Represented by its Authorised Signatory,
3rd Avenue, Anna Nagar East,
Chennai-102. .. Respondents/Respondents

Prayer:- Civil Miscellaneous Appeal preferred under Section 173 of Motor Vehicles Act, 1988, against the award of the learned III Judge, Small Causes Court, Chennai dated 07.08.2014 passed in M.C.O.P.No.1746 of 2010.

For Appellants : Mr.Nathan and Asso.

For Respondents : R1-Ex-parte
R2-Mr.T.K.Premkumar.

JUDGMENT

[JUDGMENT OF THE COURT WAS DELIVERED BY C.T.SELVAM, J]

This Civil Miscellaneous Appeal has been preferred against award of the learned III Judge, Small Causes Court, Chennai dated 07.08.2014 passed in M.C.O.P.No.1746 of 2010.

2. Heard learned counsel for appellants and learned counsel for second respondent.



3. Appellants are the Mother and Father of the deceased. First Respondent is owner of vehicle and the second respondent is the Insurance Company. On 18.8.2009 at about 13.15 hours, while the deceased was riding her Motor cycle bearing Registration No.TN-10-V-4102, a Van bearing registration No.TN-10-L-6283 dashed against the two wheeler, due to which, the deceased sustained fatal injuries and died. The parents of the deceased/ claimants sought compensation in a sum of Rs.75,00,000/-.

4. Before the Tribunal, on the side of appellants/claimants, 2 witnesses were examined and 14 exhibits were marked. On the side of respondent, one witness was examined and 7 exhibits were marked.

5. On appreciation of materials before it, Tribunal, under judgment dated 07.08.2014, awarded compensation of Rs.17,17,920/- under various heads.

6. Learned counsel for appellant submits that Court below has erred in applying the multiplier 8 in the present case. The deceased/daughter of the claimants, was aged 26 as on the date of accident and the decision of Apex Court in Amrit Bhanu Shali & Others Vs. National Insurance Company Ltd., & others [CDJ 2012 SC 453] informs that if the age of the deceased ranges between 26 and 30, the multiplier applicable would be 17. Learned counsel for appellants further submits that the compensation awarded towards loss of love and affection at Rs.1,00,000/- is inadequate.

7. Learned counsel for second respondent submits that no proper proof of employment of the deceased has been provided by the claimants.

8. In view of the above submissions, this Court finds that Tribunal, duly satisfied as to the income of the deceased/daughter of the claimants through Ex.P3 Salary Certificate, as also the Form-16 income tax computation sheet filed the employer of the deceased, has against such form revealing the gross earnings of the deceased at Rs.281264/- fixed her earnings at Rs.22,193/-. It has duly afforded 50% towards future prospects of the deceased and monthly income has thus been placed at Rs.33,290/-. The deceased being unmarried, 50% has been deducted towards her personal expenses. A sum of Rs.1,00,000/- has been awarded towards loss of love affection and Rs.20,000/- towards funeral Expenses.



9. The approach adopted by the Tribunal is in order except in applying multiplier. It ought to have followed the decision in Amrit Bhanu Shali & Others Vs. National Insurance Company Ltd., & others [CDJ 2012 SC 453] and doing so, would bring the calculation of pecuniary loss to Rs.16,645 X 12 X 17 = Rs.33,95,580/-.

10. Accordingly, this Court directs as follows:-

Monthly income - Rs. 33,290/-

After deducting 50% of the
amount towards the personal
expenses of the deceased - Rs. 16,645/-

Pecuniary loss is calculated
as Rs.16,645 X12 X 17 - Rs.33,95,580/-

Loss of Love and affection - Rs. 1,00,000/-

Funeral Expenses - Rs. 20,000/-

Rs.35,15,580/-

11. In the result, the Civil Miscellaneous Appeal is allowed and the claim amount already awarded by the Tribunal is enhanced to Rs.35,15,580/-. The second respondent-insurance company is directed to pay the award amount at the first instance and recover the same from the first respondent/owner of the vehicle. The Insurance Company is directed to deposit the sum awarded by the Tribunal with interest at 7.5% per annum within four weeks from the date of receipt of a copy of this order. Thereafter, the claimants are entitled to receive the same forthwith. No costs. The claimants are directed to pay court fee, if any, on the enhanced compensation.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To:

1. The III Judge,
Small Causes Court,
Chennai.

2. The Section Officer,
V.R.Section,
High Court,
Madras.

+lcc to Mr.NATHAN & ASSO. Advocate, S.R.No. 71909/17

+lcc to Mr.T.K.PREMKUMAR Advocate, S.R.No. 71847/17

C.M.A.No.3443 of 2014

GP(CO)
TR(13/12/2017)