IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 27.02.2017
CORAM
THE HON'BLE Dr.JUSTICE S.VIMALA
C.M.A.No.889 of 2017
and C.M.P.No.4353 of 2017

United India Insurance Co. Ltd.,
P.B.No.34, C.G.Complex,
139, Kumaran Road, Tirupur ... Appellant/2nd Respondent

Vs.

1.Jayagodi
2.Jayalakshmi
3.Minor Dineshkumar
4.Minor Vikash
Minors rep. by their mother and guardian
Jayalakshmi

5.M/s.Flower Hosieries,
Lakshmi Nagar,
50 Feet Road, Tirupur. ... Respondents/Petitioner/1st Respondent

Civil Miscellaneous Appeal preferred under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 23.06.2007 made in M.C.O.P.No.840 of 2005 on the file of the Motor Accident Claims Tribunal, [Additional District Court FTC-V], Tirupur at Coimbatore.

For Appellant : Mr.S.Arun Kumar

J U D G M E N T

The deceased, Namachivayam, aged 32 years, working as a Supervisor in M/s.Premdurai Exports and thereby, earning a sum of Rs.5,000/- per month, met with an accident that took place on 06.01.2004 and succumbed to the injuries sustained in the accident. Therefore, the legal representatives of the deceased filed a claim petition claiming compensation in a sum of Rs.11,00,000/-.

2.The Tribunal, on consideration of oral and documentary evidence, awarded compensation in a sum of Rs.11,00,000/-, the break-up details of which are as under:

i. Loss of Income	-	Rs.10,20,000/-
ii.Loss of consortium	-	Rs. 25,000/-
iii.Loss of love and affection	-	Rs. 50,000/-
iv.Funeral Expenses	-	Rs. 5,000/-
Total		Rs.11,00,000/-

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

3.Though very many grounds have been raised in the appeal, however, at the time of argument, the learned counsel for the appellant has restricted his argument to the quantum of compensation alone and therefore, this Court is not venturing into the other grounds raised by the appellant.

4.Learned counsel appearing for the appellant submitted that the Tribunal has fixed Rs.7,500/- per month as income of the deceased is unwarranted and excessive, whereas the deceased was earning only a sum of Rs.5,000/- per month. He further submitted that the Tribunal ought to have deducted 50% from the annual income of the deceased towards personal expenses instead of 1/3rd deduction. Hence, the compensation granted under the head loss of income needs interference.

5.This Court gave its anxious consideration to the contentions advanced by the learned counsel for the appellant and perused the materials available on record as also the order passed by the Tribunal.

6.A perusal of the award passed by the Tribunal reveals that on the side of the claimants, Ex.P2-Postmortem report has been marked, which shows the age of the deceased as 32 years which is reflected in the claim petition also. Hence, the Tribunal has fixed the age of the deceased as 32 years. So far as the avocation of the deceased is concerned, it is claimed in the claim petition that the deceased was working as a Supervisor in M/s.Premdurai Exports and thereby, earning a sum of Rs.5,000/-. Based on the evidence of P.W.3-Chief Manager, M/s.Premdurai Exports, the Tribunal has fixed the loss of income at Rs.60,000/- per annum, after making appropriate additions towards future prospective increase in income and making requisite deductions towards the personal expenses of the deceased and quantified the compensation at Rs.10,20,000/-. The Tribunal has also awarded a sum of Rs.50,000/- towards loss of love and affection and Rs.25,000/- towards loss of consortium and Rs.5,000/- towards funeral expenses.

7.It is the contention of the learned counsel for the appellant that the Tribunal has fixed the monthly income of the deceased at Rs.5,000/-, which is on the higher side. However, the said contention is liable to be rejected for the simple reason that P.W.3-Chief Manager has deposed that the deceased was working as a Supervisor and was getting a sum of Rs.5,000/- as monthly salary. Furthermore, the Tribunal, fixing a sum of Rs.5,000/- as monthly income for a person working as Supervisor in the year 2004, cannot be found fault with, as the said amount fixed cannot be said to be on the higher side. Therefore, the compensation quantified towards loss of income cannot be said to be excessive and warrants no interference.

8.Insofar as the compensation awarded under the other heads, viz., loss of love and affection, loss of consortium and funeral expenses are concerned, the compensation awarded is very meager. However, at this point of time, this Court is not inclined to enhance the compensation awarded under the non-pecuniary heads. Accordingly, the compensation awarded under the above heads are confirmed.

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

10.The appellant/Insurance Company is directed to deposit the entire amount of compensation as awarded by the Tribunal, less the amount, if any, already deposited, along with interest at 7.5% per annum from the date of petition till the date of deposit, 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 the 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(CS V)

//True Copy//

Sub Assistant Registrar

gya/GLN

To
1.The Additional District Court FTC-V,
Motor Accident Claims Tribunal,
Tirupur at Coimbatore.

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

KK(CO)
sm:21.3.2018

C.M.A.No.889 of 2017
and
C.M.P.No.4353 of 2017