

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.1841 of 2017
and CMP No.9912 of 2017

National Insurance Co. Ltd.,
Divisional Manager,
Officers Line, Vellore

... Appellant

versus

1. A.Sasikala
2. Minor Deepak
3. P.Varadaraj
4. V.Rathinam

... Respondents

[Minor/2nd respondent rep. by his mother/1st respondent Mrs.A.Sasikala]

Prayer: Civil Miscellaneous Appeal is filed, against the judgment and decree in M.C.O.P.No.125 of 2005, dated 25.06.2008, on the file of the Motor Accident Claims Tribunal, [Sub Court], Gudiyatham.

For Appellant : Mrs.C.Harini
for Mr.N.Vijayaraghavan

JUDGMENT

(Judgment of the Court was made by S.MANIKUMAR ,J.)

The only challenge in this appeal, is to the quantum of compensation of Rs.14,85,334/- awarded with interest at the rate of 7.5% per annum from

the date of claim till deposit and costs, to the legal representatives of the deceased viz., wife, minor son and parents, on the ground that the annual income fixed by the tribunal as Rs.1,30,000/-, for the purpose of computing the loss of contribution to the family, is excessive.

2. Short facts leading to the appeal are that, in the accident which occurred on 22.03.2005, a 30 year old man died. According to the legal representatives, as a Supervisor in M/s.Hanil Lear Indian (P) Limited, Thiruvallur, the deceased earned Rs.15,000/- per month. Wife, minor son and aged parents of the deceased, filed M.C.O.P.No.125 of 2005, on the file of the Motor Accident Claims Tribunal, [Sub Court], Gudiyatham, claiming compensation of Rs.36,20,000/-. Though, it was claimed that the deceased earned Rs.15,000/- per month, taking note of the evidence of PW1, wife of the deceased, who has deposed that her husband's yearly salary was Rs.1,30,000/- and also based on Ex.P6, Salary Slip, showing salary of Rs.11,230/-, the tribunal fixed the annual income of the deceased as Rs.1,30,000/-. As per Ex.P4, Transfer certificate, deceased was aged 33 years. As the number of claimants was four, deducted 1/3rd towards the personal and living expenses of the deceased, applied 17 multiplier applicable to the age of the deceased, and computed the loss of contribution to the family as Rs.14,73,334/- [Rs.1,30,000/- x 17 x 2/3].

3. That apart, the Tribunal has awarded a sum of Rs.5,000/- as consortium to the first respondent/wife, Rs.5,000/- in total, under the head love and affection to the wife, minor son and aged parents of the deceased and Rs.2,000/- towards funeral expenses. Altogether, the Tribunal has awarded a sum of Rs.14,85,334/- as compensation, with interest, at the rate of 7.5% per annum from the date of claim till deposit.

4. Though supporting the prayer sought for in this appeal, Mrs.C.Harini, learned counsel for the appellant submitted that the Tribunal has fixed a higher sum of Rs.1,30,000/- as annual income, and thus awarded an excess compensation, under the head loss of contribution to the family, this court is not inclined to accept the said contention for the reason that to provide food, shelter, clothing and to meet out expenses for basic necessities, one requires a reasonable income. Further, statutory charges like water, electricity and other charges, are on the increase. Needles to state the cost of essential commodities is not static. Cost of transportation is on the rise. In the case on hand, the deceased is survived by a family, comprising of his aged parents, wife and a minor son and considering the escalation of expenditure on the above, we are of the view that, the Tribunal ought to have fixed the income claimed by the legal representatives of the claimants. Though the deceased was only 33 years at the time of

accident, tribunal has not considered the aspect of future prospects.

5. Further, perusal of the award shows that the Tribunal has awarded a very less compensation of Rs.5,000/- under the head loss of consortium to the wife, who was aged just 24 years, at the time of accident. As per the decision of the Hon'ble Apex Court in ***Rajesh & Others Vs. Rajbir Singh & Others*** reported in ***(2013) 9 SCC 54 = 2013 (2) TN MAC 55 (SC)***, it should be at least Rs.1,00,000/-. Further, the Tribunal has awarded Rs.5,000/- only towards loss of love and affection to all the claimants viz., wife, minor son and aged parents. Award of Rs.5,000/- under the head funeral expenses is also less. There is no award for transportation, loss of estate and conventional damages.

6. Though, we are of the view that the award of the tribunal is less, so far, no appeal has been filed by the claimants seeking enhancement, judgment and decree passed by the Motor Accident Claims Tribunal, [Sub Court], Gudiyatham dated 25.06.2008, made in M.C.O.P.No.125 of 2005 and hence, it is sustained and the Civil Miscellaneous Appeal is dismissed. It is made clear that dismissal of this appeal, shall not foreclose the right of the claimants to prefer any appeal for enhancement. No costs. Consequently, the connected Miscellaneous Petition is closed.

7. Learned counsel for the appellant has submitted that the

appellant-Insurance Company has already deposited the entire award amount to the credit of M.C.O.P.No.125 of 2005, on the file of the Motor Accident Claims Tribunal, [Sub Court], Gudiyatham.

8. In view of the above, except the minor respondent, others viz., respondents 1, 3 and 4 are permitted to withdraw their shares, as apportioned by the tribunal, with proportionate accrued interest and costs, by making necessary applications. Share of the minor/2nd respondent shall be deposited in any one of the Nationalised Banks in fixed deposit under the reinvestment scheme initially for a period of three years. The interest accruing on the share of the minor/2nd respondent, shall be paid to the mother of the minor, the 1st respondent herein viz., Mrs.A.Sasikala, once in three months, till he attains majority.

(S.M.K., J.) (N.A.N., J.)
23.06.2017

Index : Yes/No
Internet : Yes/No

Note:

The tribunal is directed to put up a copy of the order made in this appeal, in the notice board, mentioning the names of the parties to MCOP No.125 of 2005, and further directed to disburse the amount after due verification and identity.

ars

S. MANIKUMAR, J.
AND
M.GOVINDARAJ, J.

ars

To

1. Motor Accident Claims Tribunal
[Sub Court], Gudiyatham.
2. The Section Officer,
VR Section, High Court, Madras

C.M.A.No.1841 of 2017
and CMP No.9912 of 2017

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<http://www.judis.nic.in>