IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 17.07.2017
CORAM
THE HONOURABLE Dr. JUSTICE. S.VIMALA
C.M.A.No.2242 of 2017
and C.M.P.No.12261 of 2017

National Insurance Co. Ltd.,
Vazhuthakadu
Thiruvanandhapuram. ... Appellant / 3rd Respondent

versus

A.Janardhanam (died)

1. J.Sridevi ... 1st respondent/claimant

2. Sivankutty Nair ... 2nd respondent/1st respondent

3. Managing Director,
Kerala State Road Transport Corporation,
Thiruvanandhapuram. ... 3rd respondent/2nd respondent

Prayer: Appeal filed under Section 173 of Motor Vehicle Act 1988, against the Judgment and Decree dated 28.04.2005 made in M.C.O.P.No.72 of 2004 on the file of the Motor Accident Claims Tribunal, Sub Judge, Udumalpet.

For Appellant : Mr.S.Arunkumar

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the Insurance Company challenging the quantum of compensation.

2. The deceased, Gunaseelan, aged 20 years, an Electrician and Drama Artists, earning a sum of Rs.15,000/- per month, died in an accident on 21.07.2002. The claimants, father and sister of the deceased filed claim petition claiming compensation of Rs.5,00,000/-.

3. As against the claim made for Rs.5,00,000/-, the Tribunal, on consideration of oral and documentary evidence, passed an award for a sum of Rs.4,20,000/- as compensation, the break-up details of which are as under :-

Loss of dependency	-	Rs.4,08,000/-
Loss of love and affection	-	Rs. 10,000/-
Funeral Expenses	-	Rs. 2,000/-
Total	-	Rs.4,20,000/-

4. The main contention of the learned counsel for the appellant Insurance Company is that the deduction towards personal expenses should have been 50%, when the deceased is a bachelor and the deduction of $1/3^{rd}$ made by the Tribunal is erroneous and the same needs to be modified.

5. To appreciate the contention raised herein, it is necessary to look into the parameters that was considered by the Claims Tribunal for fixing the deduction at $1/3^{rd}$.

6. A perusal of the evidence reveals that in the course of her examination the 2^{nd} claimant has deposed that while the deceased was earning a sum of Rs.15,000/-, the contribution of the deceased to the family was Rs.7,000/-. When there is a categorical evidence even on the side of the claimants that the contribution of the deceased to the family was to the tune of 50%, then necessarily the deduction towards personal expenses should be 50%. Therefore, the contention of the learned counsel for the appellant on that ground is liable to be sustained.

7. However, it is to be noted that the Tribunal has not considered future prospective increase in the income of the deceased. In such a scenario, this Court feels that no interference is called for with the deduction made towards personal expenses of the deceased.

8. The Tribunal, fixing the age of the deceased at 25 years, adopting the multiplier of '17' has quantified the compensation. Except for the deduction, the excessiveness on other count has not been questioned by the appellant. On an overall consideration of the issue, for the reasons aforesaid, this Court is of the considered opinion that the compensation awarded cannot be said to be excessive or unreasonable. Therefore, the award passed by the Tribunal is confirmed.

9. In the result, the Civil Miscellaneous Appeal is dismissed confirming the award passed by the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

10. It is represented by the learned counsel for the appellant that entire amount along with interest has already been deposited by the Insurance Company and the same has already been withdrawn by the claimant. The said statement made by the learned counsel for the appellant is recorded.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To
1. The Subordinate Judge,
   The Motor Accident Claims Tribunal,
   Udumalpet.

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

VSN(CO)
sm:20.3.2018

C.M.A.No.2242 of 2017