IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.10.2017

CORAM:

THE HONOURABLE DR.JUSTICE S.VIMALA

C.M.A. No.2953 of 2017

1. Nilaveni .S
2. M.Subramani
3. S. Jayaraj
4. S. Jayarani
   Minor represented by here mother
   and next friend, the first appellant herein ... Appellants

Versus

1. N.Babulal
2. The New India Assurance Company Ltd.,
   No.45, Moore Street,
   5th floor,
   Chennai - 600 001. ... Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the order made in M.C.O.P. No.4821 of 2013, dated 01.08.2017 on the file of the Court of the Chief Judge, MCOP Tribunal, Chennai.

For Appellants : Mr.Amar D. Pandiya
For Respondents : Mr.J. Chandra for R2
R1-Notice dispensed with

JUDGMENT

In the case of death of a Bachelor, while quantifying the compensation, whether multiplier has to be adopted depending upon the age of the deceased or the age of the dependants is the only issue arising for determination in this appeal.

2. S. Immanuvel @ Umanath, aged 19, A.C. Mechanic, earning a sum of Rs.12,000/-p.m., died in an accident that took place on 10.05.2013. In respect of the accident, a case was registered by Inspector of Police, Kilpauk Traffic Investigation police station in Crime No.168 of 2013.

3. The deceased at the time of the accident was the pillion rider of the motor cycle. The legal representatives viz., first claimant as the mother, second claimant as the father, third claimant as the brother and fourth claimant as the Minor sister of the deceased have filed the claim petition claiming a sum of Rs.15,00,000/- as compensation.

4. The Tribunal has awarded a sum of Rs.11,38,000/- towards compensation and the break up details are reads as under :-

Sl. No.	***Heads***	***Amount Rs.***
1	Income Rs.8000/-p.m. + 50% - 1/2 x 12 x 14	10,08,000/-
2	Loss of love and affection to petitioners 1 to 4	1,00,000/-
3	Transport charges	5,000/-
4	Funeral expenses	25,000/-
	Total	11,38,000/-

5. Challenging the same as inadequate and against the settled principle of law, the claimants have filed the appeal.

6. The contention of the learned counsel for the claimants is that, while fixing the quantum of compensation, the multiplier has to be adopted

depending upon the age of the deceased, but the Tribunal adopted the multiplier on the basis of the age of the dependents / claimants. The learned counsel appearing for the claimants relied upon the decision of the Hon'ble Supreme Court reported in (Munna Lal Jain and another Versus Vipin Kumar Sharma and others) 2015 (1) TNMAC 814 (SC), whereunder it has been held that it is only the age of the deceased which is the relevant criteria to decide the multiplier. Para 12 of the said Judgment highlighting the reason for choosing the age of the deceased as the proper criteria, which reads as under :-

> The remaining question is only on multiplier. The High Court following Santhosh Devi (supra), has taken 13 as the multiplier. Whether the multiplier should depend on the age of the dependants or that of the deceased, has been hanging fire for sometime; but that has been given a quietus by another three -Judge Bench decision in Reshma Kumari (supra). It was held that the multiplier is to be used with reference to the age of the deceased. One reason appears to be that there is certainty with regard to the age of the deceased but as far as that of dependants is concerned, there will always be room for dispute as to whether the age of the eldest or youngest or even the average, etc., is to be taken. To quote :
>
> "36. In Sarla Verma, this Court has endeavoured to simplify the otherwise complex exercise of assessment of loss of dependency and determination of compensation in a claim made under Section 166. It has been rightly stated in Sarla Verma that the claimants in case of death claim for the purposes of compensation must establish (a) age of the deceased; (b) income of the deceased; and (c) the number of dependants. To arrive at the loss of dependency, the Tribunal must consider (i) additions / deductions to be made for arriving at the income; (ii) the deductions to be made towards the personal living expenses of the deceased; and (iii) the multiplier to be applied with reference to the age of the deceased. We do not think it is necessary for us to revisit the law on the point as we are in full agreement with the view in Sarla Verma".

7. The respondents relied upon the decision reported in (Ashvinbhai Jayantilal Modi versus Ramkaram Ramchandra Sharma & Othr.) 2015 (1) TNMAC 52 (SC) in which it has been held that the age of the parents of the deceased would be the criteria to chose the multiplier.

8. The Hon'ble Supreme Court in Munna Lal Jain case referred to above, while discussing the reasons for choosing the age of the deceased has point out that there are several imponderables in life and economic factors, the table of multipliers with reference to the age is important. Therefore, in the light of the judgment of the Full Bench decision in Reshma Kumari, it was held that the decision of the Division Bench cannot be relied upon. Resultantly, it was held that the multiplier has to be chosen depending upon the age of the deceased.

9. In order to arrive at the quantum of compensation, it is necessary to find out the details furnished by the claimants and the parameters taken by the claims Tribunal.

10. The deceased, according to the legal representatives, was earning a sum of Rs.12,000/-p.m. The Tribunal adopted the multiplier of 14, considering the age of the parents. It is settled law that it is only the age of the deceased which is liable to be considered in fixing the multiplier. The deceased was at the time of accident was aged 19. The Tribunal has also relied upon Ex.P2, post morterm certificate, which has been recorded. Therefore, there is no dispute that the age of the deceased was 19. For the

age group of 15 to 20, the appropriate multiplier is 18. Therefore, the loss of dependency has to be arrived at using 18 as the multiplier. Therefore, the revised quantum of compensation to be awarded is furnished in the tabulation below :-

Sl. No.	*Heads*	*Amount Rs.*
1	**Income** **Rs.8000/-p.m. + 50% - 1/2 x 12 x 18**	12,96,000/-
2	Loss of love and affection to petitioners 1 to 4	1,00,000/-
3	Transport charges	5,000/-
4	Funeral expenses	25,000/-
	Total	14,26,000/-

11. In the result, the appeal is partly allowed enhancing the quantum of compensation from Rs.11,38,000/- to Rs.14,26,000/-.

12. The second respondent / insurance company herein shall deposit the amount of compensation, as determined by this Court i.e. Rs.14,26,000/- (Less the amount already deposited, if any) along with interest @ 7.5% from the date of petition till the date of deposit, within a period of four weeks from the date of receipt of the copy of the Judgment to the credit of M.C.O.P. No.4821 of 2013, dated 01.08.2017 on thh file of the Court of the Chief Judge, MCOP Tribunal, Chennai. On such deposit, the claimants shall pay remaining court fee, due if any, before obtaining copy of the Judgment. The ratio of apportionment is as indicated by the Claims Tribunal. The amount

payable to the share of 4th appellant / 4th claimant shall be kept in fixed deposit, till the minor attains majority in any one of the Nationalised Banks for a period of three years and the interest shall be payable to the first claimant once in three months under intimation to the Tribunal. Amount payable to appellants 1 to 3 shall be directly transferred to the bank accounts of the claimants through RTGS.

13. The appeal stands allowed to the extent indicated above. No costs.

Index : Yes / No
Internet : Yes /No
Speaking/Non speaking
vsi2

To
1. The Court of the Chief Judge,
   MCOP Tribunal, Chennai.

2. The Section Officer,
   V.R. Section,
   High Court,
   Madras – 104.

Dr.S.VIMALA, J.

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