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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBBIAH**

AND

THE HONOURABLE MRS.JUSTICE **J.NISHA BANU**

C.M.A.[MD].No.820 of 2015

and

M.P.(MD)No.3 of 2015 and

C.M.P.(MD)No.12491 of 2016

The Branch Manager,
Bajaj Allianz General Insurance Company Limited,
No.108, TPK Road,
Madurai-625 001.

: Appellant/2nd Respondent

Vs.

1.Danalakshmi

2.Minor M.Abinayapriya

3.Minor M.Karthikeyan

Minor respondents 2 and 3 are represented

by their mother first respondent Danalakshmi

4.Murugan

5.Rakkammal

6.Lakshmi

: Respondents/petitioners

7.Ramanathan

: Respondent/Respondent No.1

PRAYER: Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, praying to set aside the fair and decreetal order dated 02.09.2013 made in M.C.O.P.No.2 of 2013, on the file of the Motor Accident Claims Tribunal (Additional District Court), Virudhunagar.

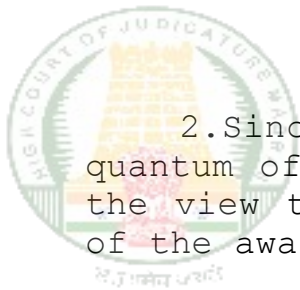
For Appellant : Mr.S.Srinivasa Raghavan

For Respondents : Mr.R.R.Kannan

J U D G M E N T

[Judgment of the Court was delivered by R.SUBBIAH, J.]

This appeal has been filed by the appellant Insurance Company questioning the quantum of compensation of Rs.44,76,896/- awarded by the Tribunal in M.C.O.P.No.2 of 2013, dated 02.09.2013, as against the claim of Rs.50,00,000/- made by the respondents 1



2. Since the present appeal has been filed only questioning the quantum of compensation awarded by the Tribunal, this Court is of the view that it is not necessary to deal with the other aspects of the award.

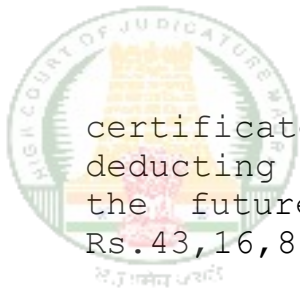
3. With regard to the quantum of compensation, it is the case of the respondents 1 to 6/ claimants before the Tribunal that the deceased was aged about 38 years at the time of his death. The deceased was working as Head Constable and earning a sum of Rs.20,594/- per month. Thus, the Tribunal fixed a sum of Rs.20,494/- as monthly income, after deducting the medical allowance to the tune of Rs.100/- and arrived at the annual income of Rs.2,45,928/-, out of which, for a sum of Rs.1,85,000/-, there was no income tax and for the remaining sum of Rs.60,928/-, the tax to be applied was 10% and after deducting the income tax amount of Rs.6,100/-, the Tribunal fixed a sum of Rs.2,39,828/- as annual income. Furthermore, as per the ratio laid down in **Smt. Sarla Verma & Ors. v. Delhi Transport Corporation & another** reported in **2009(2) TNMAC 1 (SC)**, by adding 50% future income of Rs.1,19,914/-, the Tribunal calculated a sum of Rs.3,59,742/- as the annual income. After deducting the one fourth amount towards his personal expenses, the Tribunal arrived at a sum of Rs.2,69,806/- as the annual income. Thereafter, by applying the multiplier '16', the loss of income comes to Rs.43,16,896/-. The Tribunal has also awarded compensation under the other heads. The break up details of the amount awarded by the Tribunal are as follows:

Loss of income	: Rs.43,16,896/-
Loss of love and affection	: Rs. 1,25,000/-
Loss of consortium	:Rs. 25,000/-
Transport Expenses	: Rs. 5,000/-
Funeral Expenses	: Rs. 5,000/-

Total Rs.44,76,896/-

4. Though several grounds have been raised in this appeal, at the time of argument, the learned counsel for the appellant / Insurance Company mainly focussed his argument only on the ground that as per the judgment of the Hon'ble Supreme Court in **Smt. Sarla Verma & Ors. v. Delhi Transport Corporation & another** reported in **2009(2) TNMAC 1 (SC)**, the appropriate multiplier to be adopted in this case is '15' and if the multiplier of '15' is adopted, the annual loss of income comes to Rs.40,47,090/-. Thus, the compensation awarded by the Tribunal under the head "loss of income" needs appropriate reduction. In respect of the amount awarded under the other heads, there is no dispute.

5. However, according to the respondents 1 to 6/claimants, at the time of the accident, the respondent was working as Head Constable and the Tribunal, by placing reliance on the salary



certificate and other documents of the deceased and after deducting the amount towards income tax and also after considering the future income, has rightly fixed the loss of income as Rs.43,16,896/- and the same need not be interfered with.

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6. Keeping in mind the submissions made by the learned counsel appearing on either side, we have carefully gone through the entire materials available on record.

7. As rightly contended by the learned counsel for the appellant, as per the judgment of the Hon'ble Supreme Court in **Sarla Verma's** case cited *supra*, the appropriate multiplier to be adopted in this case is '15'. Thus, by applying the multiplier '15', if the calculation is made, the loss of income comes to Rs.40,47,090/- [Rs.2,69,806x15]. In our considered view, the amount awarded under the other heads appears to be reasonable and hence, the same need not be interfered with. Hence, the compensation of Rs.44,76,896/- awarded by the Tribunal is reduced to Rs.42,07,090/- as under:

Loss of income	: Rs.40,47,090/-
Loss of love and affection	: Rs. 1,25,000/-
Loss of consortium	:Rs. 25,000/-
Transport Expenses	: Rs. 5,000/-
 Funeral Expenses	 : Rs. 5,000/-
 Total	 ----- Rs. 42,07,090/- -----

8. In fine, this appeal is partly allowed without costs. The compensation awarded by the Tribunal is reduced to Rs.42,07,090/-. The appellant / Insurance Company is directed to deposit the entire award amount with 7.5% interest per annum from the date of petition till the date of deposit, less the amount already deposited, if any, before the Tribunal, within a period of six weeks from the date of receipt of a copy of this judgment. The excess amount, if any, had been deposited, the same shall be withdrawn by the appellant/ Insurance Company. On such deposit being made, the respondents 1 and 4 to 6 are permitted to withdraw the compensation amount as apportioned by the Tribunal, less the amount already withdrawn, if any. In respect of the minor respondents 2 and 3, their shares shall be kept in an interest bearing fixed deposit in terms of the Award of the Tribunal. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar



To

1.The Motor Accident Claims Tribunal
(Additional District Court),
Virudhunagar.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1 cc to Mr. R.R.KANNAN, Advocate, Sr.No: 6064

+1 cc to Mr. S.SRINIVASA RAGHAVAN, Advocate, Sr.No: 6423

SML

MAS/RSK:27.02.2017:4P/5C

Judgment made in
C.M.A.[MD].No.820 of 2015
Dated: 03.02.2017