IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2018

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

C.M.A. No. 128 of 2018
&
C.M.P. No. 1705 of 2018

M/s. Reliance General Insurance Company Limited,
No.6, 6th Floor, Haddows Road,
Nungambakkam, Chennai - 6. ..Appellant/2nd Respondent

Vs.

1. Vijayalakshmi
2. Subash ..1st&2nd Respondents/Petitioner
3. B. Chandra ..3rd respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 22.09.2017 made in M.C.O.P. No. 906 of 2016 by the Motor Accidents Claims Tribunal (Chief Court of Small Causes), Chennai.

For Appellant :: Mr.S. Arunkumar

For Respondents:: Mr.K. Ayyadurai for R1 & R2

J U D G M E N T

(Judgment of the Court was delivered by N. KIRUBAKARAN,J.)

This Civil Miscellaneous Appeal has been preferred by the Insurance Company as against the award of Rs. 15,88,000/- granted as compensation to the dependants of one S. Godson, aged about 19 years, alleged to be doing catering service and earning about Rs.18,000/- per month, who died in the accident, which occurred on 10.01.2016 when the two-wheeler driven by him was hit by a Water Tanker Lorry bearing Registration No. TN-04-Q-4495, belonging to the 3rd respondent and insured with the appellant Insurance Company, which was driven rashly and negligently.

2. Heard Mr.S. Arun Kumar, learned counsel for the appellant and Mr. K. Ayyadurai, learned counsel for respondents 1 and 2.

3. The Insurance Company, in this appeal, questions only the quantum of compensation awarded and not about negligence. Therefore, this Court confines this order only with regard to the quantum of compensation.

4. The Tribunal took Rs.9000/- as the notional income of the deceased in the absence of any supportive evidence, eventhough P.W.1, the mother of the deceased claimed that he was earning Rs.18,000/- per month. The deceased was aged about 19 years and in the absence of any material evidence to prove the income earned by the deceased, it is appropriate to fix the notional income of the deceased at Rs.8000/- per month. To this, 40% has to be added towards "Future Prospects" following the judgment of the Constitution Bench of the Honourable Supreme Court rendered in National Insurance Company Limited V. Pranay Sethi and Others reported in 2017 ACJ 2700. Accordingly, adding 40% towards "future prospects", the "total income" of the deceased comes to Rs.11,200/-(Rs.8000/- (+) 40% (Rs.8000/-)).

5. The deceased was a bachelor and therefore, 50% has to be deducted towards " Personal and Living Expenses" so as to arrive at "Monthly Contribution of the deceased to his family". After deducting 50%, the "Monthly Contribution" is calculated as,

Total Income :: Rs.11,200/-
Less; 50% towards "Personal
Expenses" :: Rs.11,200/- (-) 50% (Rs.11,200/-)
:: Rs.5,600/-
Monthly Contribution :: Rs.5,600/-
Annual Contribution :: Rs.5600 x 12

The deceased was aged 19 years, as evidenced by Ex-P3, postmortem certificate and the appropriate multiplier for the said age is 18. Therefore, applying multiplier 18, "Loss of Income" is worked out thus:

Loss of Income :: Rs.5600 x 12 x 18
:: Rs.12,09,600/-

6. As far as the amounts awarded under other heads are concerned, Rs.1 lakh awarded towards "Loss of Love and Affection" is on the higher side and the same is reduced to 50,000/-. Likewise, Rs.25,000/- awarded towards "Funeral Expenses" is reduced to Rs.15,000/- in the light of the judgment of the Constitution Bench of the Honourable Apex Court rendered in Pranay Sethi's case (2017 ACJ 2700). No amount was awarded towards "Loss of Estate". Hence, a sum of Rs. 15,000/- is awarded under the said head. The amount awarded towards "Transportation Expenses" is enhanced to Rs.10,000/-. Hence,

the total compensation payable to respondents 1 and 2 is as hereunder:

Loss of Income	::	Rs.12,09,600/-
Loss of Love and Affection	::	Rs. 50,000/-
Funeral Expenses	::	Rs. 15,000/-
Transport Expenses	::	Rs. 10,000/-
Loss of Estate	::	Rs. 15,000/-
Total	::	Rs.12,99,600/-
rounded off to	::	Rs.13,00,000/-

The rate of interest awarded by the Tribunal @ 7.5% per annum remains unaltered.

7. The appellant Insurance Company is directed to deposit the entire award amount, as per the modified award passed by this Court, with interest and costs, after deducting the amount already deposited, if any, before the Tribunal, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to transfer the respective shares of respondents 1 and 2/claimants, to their bank accounts, through RTGS, as per the apportionment of the Tribunal, within a period of one week thereon.

8. The Civil Miscellaneous Appeal is partly allowed reducing the compensation awarded by the Tribunal from Rs.15,88,000/- to Rs.13,00,000/- with interest @ 7.5% per annum. No costs. Connected C.M.P. is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

nv
To
1. The MACT (Chief Court of Small Causes),Chennai.
2. The Section Officer, V.R. Section, High Court, Madras.
+ 1 cc to Mr.D. Rajesh, Advocate Sr.35640
+ 1 cc to Mr.S. Arunkumar, Advocate SR. 35947

C.M.A. No. 128 of 2018

BR(CO)
EU(04/07/2018)