IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2018

CORAM :

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

C.M.A.No.1393 of 2018
and
C.M.P.No.11178 of 2018

The Manager,
M/s.United India Insurance Co. Ltd.,
(T.P.HUB), Vellore Division Office,
No.81,TKM Complex, II Floor,
Katpadi Road, Vellore. ... Appellant/2nd Respondent

Vs

1.P.Venkamma
2.P.Subramaniyam
3.P.S.Lokesh
4.P.Mohanakumari
5.P.Usha
6.P.Poorna
7.M.Jeevarathanam ... Respondents/Respondents

PRAYER : Civil Miscellaneous Appeal filed against the Decree and Judgment dated 04.10.2017 made in M.C.O.P.No.147 of 2016 on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Tiruttani.

For Appellant :Mr.S.Arun Kumar

For Respondents:Mr.K.R.Ponnusamy
for M/s.Anand and Suryas

J U D G M E N T

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

The appeal has been preferred by the insurance company, questioning the quantum of compensation of Rs.72,59,368/- awarded in favour of the dependents of one P.Sathish, aged about 25 years, working as a police constable in Nagari Police Station, earning about Rs.33,000/- per month, who died in the accident, which occurred on 28.03.2016, when the victim travelled as an occupant of the Swift car insured with the appellant/insurance company, from Chittoor to Puttur and the car driven rashly and negligently hit against the tamarind tree.

2.Heard Mr.S.Arun Kumar, learned counsel appearing for the appellant and Mr.K.R.Ponnusamy, learned counsel appearing for the claimants.

3.Mr.S.Arun Kumar, learned counsel appearing for the appellant, would fairly submit that the appeal has been filed only on the question of quantum of compensation. He would submit that ¼th was deducted by the Tribunal towards personal expenses pointing out the size of the family, whereas the victim was a bachelor, in that case 50% has to be deducted. Therefore, he seeks to deduct 50% towards personal expenses from the salary of the deceased. Further, he would submit that Rs.3,00,000/- towards loss love and affection to the claimants is on the higher side.

4.On the other hand, the learned counsel appearing for the claimants would support the award.

5.It is proved by the claimants that the deceased Mr.P.Sathish was earning about Rs.28,949/-, working as Police Constable in Nagari Police Station, as per Ex.P.12-pay certificate issued by the authorities. Ex.P.5-Transfer certificate, Ex.P.6-Provisional certificate, Ex.P.7-Pan card and Ex.P.8-Identity card would prove that the age of the deceased is 25, which was rightly determined by the Tribunal.

6.The Tribunal added 50% towards future prospects and arrived a monthly income. The said calculation is as per the Constitution Bench's judgment of the Honourable Apex Court in National Insurance Company Limited V. Pranay Sethi and others, reported in 2017 (2) TN MAC 609 (SC). Adding 50% towards future prospects is justified as the victim was working as constable in Government of Andhra Pradesh.

7.After adding 50% towards future prospects, the monthly income would be at Rs.43,423.5/- (Rs.28,949/- + 50% of Rs.28,949/-). The yearly income would be at Rs.5,21,082/- (Rs.43,423/- x 12). In the aforesaid yearly income, standard deduction, which does not attract income during the year 2016 is Rs.2,50,000/- and if Rs.2,50,000/- is deducted, the taxable income would be at Rs.2,71,082/-. Out of the taxable income of Rs.2,71,082/-, upto Rs.2,50,000/-, 10% has to be deducted towards income tax. 10% of taxable income comes to Rs.25,000/- (10% of Rs.2,50,000/-). Remaining taxable income is Rs.21,082/- (Rs.2,71,082/- - Rs.2,50,000/-). For this Rs.21,082/-, 20% has to be deducted towards income tax. 20% of taxable income comes to Rs.4,216/-. Therefore, total income tax comes to Rs.29,216/- (Rs.25,000/- + Rs.4,216/-). After deducting income tax, the yearly income would be at Rs.4,91,865/- [Rs.2,50,000/- + (Rs.2,71,082/- - Rs.29,216/-)].

8.Where the Tribunal committed error is application of ¼th deduction based on the size of the family. The size of the family is not the matter, when the bachelor dies, 50% has to be deducted towards personal expenses. The only exception where 1/3rd has to be deducted is when the widowed mother alone was there. However, this case would not come under the exception. If 50% deducted towards personal expenses, the yearly income would be at Rs.2,45,932/- (50% of Rs.4,91,865/-)

9.The Tribunal rightly adopted "18" as multiplier, as the age of the deceased is 25 years, hence the same is confirmed. Therefore, the loss of income would be at Rs.44,26,776/- (Rs.2,45,932/- x 18).

10.Loss of love and affection:

As rightly contended by Mr.S.Arun Kumar, learned counsel appearing for the appellant, the claimants are parents, siblings and they are major. Therefore, an award of Rs.3,00,000/- towards loss of love and affection is on the higher side and the same is reduced to Rs.1,00,000/-.

11.Funeral expenses:

The Tribunal has awarded a sum of Rs.10,000/- towards funeral expenses. As per the Constitution Bench's judgment of the Honourable Apex Court in National Insurance Company Limited V. Pranay Sethi and others, reported in 2017 (2) TN MAC 609 (SC), the same is enhanced to Rs.15,000/-

12.Loss of Estate:

No amount has been awarded under this head by the Tribunal. As per the Constitution Bench's judgment of the Honourable Apex Court in National Insurance Company Limited V. Pranay Sethi and others, reported in 2017 (2) TN MAC 609 (SC), a sum of Rs.15,000/- is awarded under this head.

13.Transportation:

Even though no amount has been awarded under this head by the Tribunal, this Court awards a sum of Rs.10,000/- under this head.

Head	Amount (Rs.)
Total loss of income	4426776
Loss of love and affection	100000
Funeral expenses	15000
Loss of estate	15000
Transportation	10000
	4566776

14.Hence, the total compensation payable in this case is Rs.45,66,776/- rounded off to Rs.45,67,000/-

15.The interest awarded by the Tribunal at the rate of 7.5% per annum is unaltered. Out of the award amount the claimants 1 and 2 are entitled to get Rs.15,00,000/- each. The claimants 3 to 6 are entitled to get Rs.3,91,750/-.

16.The Insurance company is directed to deposit the award amount as per the modified award passed by this Court, with interest and costs, before the Tribunal, within a period of six weeks from the date of receipt of a copy of this order, after deducting the amount already deposited, if any. On such deposit being made, the Tribunal is directed to transfer the respective shares of claimants 1 to 6 along with proportionate interest and costs to their respective bank accounts through RTGS within a period of one week thereon.

17.Accordingly, this appeal is partly allowed, reducing the award of the Tribunal from Rs.72,59,368/- to Rs.45,67,000/- with interest. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

sai

To

The Subordinate Judge
(Motor Accident Claims Tribunal)
Tiruttani.

+ 1 cc to M/s. Anand and Surya, Advocate Sr.42219
+ 1 cc to Mr.S. Arunkumar, Advocate Sr.42021

C.M.A.No.1393 of 2018

SVI(CO)
EU(31/07/2018)