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. 158 of 2018

M/s. Reliance General Insurance Company Limited,
Rai's Towers, Plot No. 2054,
2nd Floor, Avenue Road,
Anna Nagar, Chennai - 600 040. ..Appellant/2nd Respondent

Vs.

1. Tmt. Deepa
2. Tmt. Chellammal ...1 & 2 Respondents/Petitioners

3. K. Malathi ...3rd Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 26.09.2013 passed in M.C.O.P. No. 2690 of 2013 by the Motor Accidents Claim Tribunal (Chief Court of Small Causes), Chennai.

For Appellant :: Mr.Mohan Babu for M/s.M.B. Gopalan Associates

For Respondents:: Mr.Amar D. Pandiya 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. 18,78,000/- granted as compensation by the Motor Accidents Claims Tribunal (Chief Court of Small Causes), Chennai, in M.C.O.P.No. 2690 of 2013, by judgment dated 13.06.2017, for the death of one Raja, aged about 25 years, working as Cooking Master, alleged to be earning about Rs. 15,000/- per month in the accident, which occurred on 01.07.2012, when the motor cycle driven by him along with pillion rider, was hit by a car belonging to the 4th respondent and insured with the appellant Insurance Company, driven in a rash and negligent manner.

2. Heard Mr. Mohan Babu, learned counsel for the appellant and Mr.Amar D. Pandiya, learned counsel for the claimants/respondents 1 and 2.

3. The only question to be decided is with regard to the quantum of compensation awarded by the Tribunal.

4. Though Mr. Mohan Babu, learned counsel for the appellant would contend that in the absence of any proof regarding the income of the deceased, the Tribunal fixed the monthly income at Rs.8000/-, which is on the higher side, considering the fact that the accident occurred on 01.07.2012, this Court confirms Rs.8000/- determined by the Tribunal as the monthly income of the deceased as in 2012, it would have been very difficult to get even a servant maid for salary less than Rs.8000/- per month.

5. As far as "Future Prospects" is concerned, the Tribunal awarded 50% towards the same, which is contrary to the judgment of the Constitution Bench of the Honourable Apex Court rendered in National Insurance Company Limited V. Pranay Sethi and Others reported in 2017 ACJ 2700. Therefore, 40% is added to the monthly income of the deceased towards "Future Prospects" instead of 50% following the aforesaid judgment. Adding 40%, the "total monthly income" of the deceased comes to Rs.11,200/- (Rs.8000/- (+) 40% (Rs.8000/-)).

6. The size of the family of the deceased is three and therefore, the Tribunal rightly deducted one-third towards "Personal Expenses". Applying the said deduction, "the Monthly Contribution of the deceased to his family" would be,

Monthly Income	::	Rs.11,200/-
Less: 40% towards "Future Prospects"	::	Rs.11,200/- (-) 1/3 (Rs.11,200/-)
Monthly Contribution	::	Rs.7,467/-
Annual Contribution	::	Rs.7,467 x 12

Since the deceased was aged about 25 years, the appropriate multiplier, to be adopted, for the age group of 21-25 years, as per the judgment rendered by the Honourable Supreme Court in Smt. Sarla Verma and Others V. Delhi Transport Corporation and Another reported in 2009 (2) TN MAC Pg.1 (SC), is 18. Therefore, applying the said multiplier, "Loss of Income", is calculated thus:

Loss of Income	::	Rs.7,467 x 12 x18
	::	Rs.16,12,872/-

7. With regard to the amounts awarded under the other heads, Rs.1lakh awarded towards "Loss of Consortium" is reduced to Rs.40,000/-, in the light of the judgment rendered in Pranay

Sethi's case (2017 ACJ 2700). The amount awarded towards "Loss of love and affection", to the tune of Rs.20,000/- is confirmed. The sum of Rs.25,000/- awarded towards "Funeral Expenses" is reduced to Rs.15,000/- while Rs.5,000/- awarded towards "Transportation Expenses" is enhanced to Rs.10,000/-. Since no amount was awarded towards "Loss of Estate", a sum of Rs.15,000/- is awarded under the said head. Totally, the compensation payable to the claimants comes to Rs.17,12,872/-. The rate of interest awarded by the Tribunal @ 7.5% per annum remains unaltered.

8. Out of the said compensation of Rs.17,12,872/-, the 1st respondent would be entitled to Rs.13 lakhs and the 2nd respondent would be entitled to the balance amount of Rs.4,12,872/-.

9. 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, before the Tribunal, after deducting the amount already deposited, if any, within a period of six 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, to their respective bank accounts, as per the apportionment made by this Court, through RTGS, within a period of one week thereon.

10. In the result, the Civil Miscellaneous Appeal is partly allowed reducing the compensation awarded by the Tribunal from Rs.18,78,000/- to Rs.17,12,872/- with interest @ 7.5% per annum. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To
The MACT (Chief Court of Small Causes),
Chennai.

Copy to:The Section Officer,
VR Section, High Court, Madras

+1cc to Mr.Amar D.Pandiya, Advocate SR.No.35443
+1cc to Mr.M.B.Gopalan Associates, Sr.No.36108

CA(CO)
sm:29.6.2018